



# **NAVAL POSTGRADUATE SCHOOL**

**MONTEREY, CALIFORNIA**

## **THESIS**

**U.S. ARMY SPECIAL FORCES AND HOMELAND  
SECURITY OPERATIONS**

by

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March 2008

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**U.S. ARMY SPECIAL FORCES AND HOMELAND SECURITY OPERATIONS**

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## **ABSTRACT**

Army Special Forces units are trained to conduct sensitive special operations including unconventional warfare, counterterrorism, direct action and strategic reconnaissance missions. Many of the unique skills and capabilities found in Special Forces units have potential applications to homeland security operations. Despite an absence of doctrine for domestic operations, Special Forces — especially Army National Guard Special Forces — are likely to be employed in future homeland security operations. This thesis examines potential homeland security missions for Special Forces. Additionally, given the unique first-responder role of the National Guard, this thesis analyzes potential policy changes needed to enhance National Guard Special Forces contributions to homeland security. The absence of doctrine for domestic Special Forces operations potentially adversely impacts Army National Guard Special Forces. Given the unique constitutionally mandated nature of the National Guard, state governors have the ability to activate their forces, including Army National Guard Special Forces, for homeland security operations. The absence of doctrine for domestic Special Forces operations can potentially lead to the misuse, overuse or illegal use of these strategic assets. Enhancing the National Guard's capacity to correctly use Special Forces in domestic operations will enhance the country's overall security posture.

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## **I. INTRODUCTION**

Army Special Forces units are trained to conduct sensitive special operations including unconventional warfare, counterterrorism, direct action and strategic reconnaissance missions. Many of the unique skills and capabilities found in Special Forces units have potential applications to homeland security operations. Despite an absence of doctrine for domestic operations, Special Forces — especially Army National Guard Special Forces — are likely to be employed in future homeland security operations. This thesis examines potential homeland security missions for Special Forces. Additionally, given the unique first-responder role of the National Guard, this thesis analyzes potential policy changes needed to enhance National Guard Special Forces contributions to homeland security.

### **A. DESCRIPTION AND SIGNIFICANCE OF THE PROBLEM**

Current doctrine for Special Forces fails to anticipate or even contemplate the use of Special Forces in domestic operations. This lack of strategic vision is apparently reinforced by a leadership emphasis that is focused solely on the use of Special Forces in the overseas war fight. Killing or capturing terrorists before they can attack the homeland is likely a defensible and prudent resource allocation; assuming that Special Forces will never conduct domestic operations, however, is a flawed proposition.

Equally troubling, the absence of doctrine for domestic Special Forces operations potentially adversely impacts Army National Guard Special Forces. Given the unique constitutionally mandated nature of the National Guard, state governors have the ability to activate their forces, including Army National Guard Special Forces, for homeland security operations. The absence of doctrine for domestic Special Forces operations can potentially lead to the misuse, overuse or illegal use of these strategic assets.

Given its dual nature as both a federal and state asset, Army National Guard Special Forces units are well situated to provide specialized capabilities in both homeland

defense and civil support operations. Enhancing the National Guard's capacity to correctly use Special Forces in domestic operations will enhance the country's overall security posture.

## **B. LITERATURE REVIEW**

Very little academic literature relates to the use of Army Special Forces in homeland security operations. The modest amount of literature that does exist fails to address the use of National Guard Special Forces in Title 32 (state) status. The lack of literature may be an indication that Special Forces have not been fully integrated into homeland security planning and operations.

In April 2002, Dr. Jacquelyn Davis and Dr. Charles Perry issued a workshop report entitled *Homeland Security and Special Operations, Sorting out Procedures, Capabilities, and Operational Issues*.<sup>1</sup> While the report cannot be considered literature, it does offer key insight into the views of high-level, federal policy makers. This report summarizes the consensus of the participants in a January 2002 workshop conducted by the Institute for Foreign Policy Analysis (IFPA) on behalf of the Defense Threat Reduction Agency (DTRA). Among others, the participants included the commander of U.S. Special Operations Command, the commander of U.S. Joint Forces Command, the principal deputy assistant of defense for Special Operations and Low Intensity Conflict (SOLIC), the director of operations for the Joint Staff, and the assistant to the chairman of the Joint Chiefs for National Guard matters.

The overwhelming sense of the conference participants was that, given the operational requirements of the Global War on Terror, additional homeland security responsibilities for Special Operations Forces (SOF)<sup>2</sup> were untenable. In short, the participants felt that the optimum use of SOF warriors was not in the United States, but overseas — to go after terrorists where they live and plan their activities. According to

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<sup>1</sup> Dr. Jacquelyn K. Davis, "Homeland Security and Special Operations; Sorting Out Procedures, Capabilities and Operational Issues." Workshop Report (April 2002).

<sup>2</sup> The term *Special Operations Forces* describes active and reserve component personnel from all services ultimately assigned to the U.S. Special Operations Command. Within the Army, this includes Special Forces. See also 10 USC 167.



the workshop report, the participants did discuss, in very broad terms, the concept of using National Guard forces in Title 32 status to respond to domestic emergencies. However, it seems they did not specifically address the use of National Guard Special Forces. In fact, the report states that the participants recognized that active SOF (as opposed to reserve component forces) should be employed in order to defeat the use of weapons of mass destruction in the United States. The report also concedes that SOF may be utilized to train law enforcement and other national agencies in WMD specific-mission tasks. The only significant discussion regarding reserve component forces dealt with Army Reserve Civil Affairs units. The participants apparently did not address the significant difficulties in mobilizing and deploying Army Reserve forces (as opposed to National Guard forces) to respond to homeland security situations.

In addition, while the current doctrine for Army Special Operations Forces acknowledges the possibility of domestic operations, it neither elaborates on potential missions nor discusses the potential use of National Guard Special Forces units in a domestic capacity. For example, Army Field Manual (FM) 3-05, *Army Special Operations Forces*, simply notes that civil support operations are one of the four missions within full spectrum operations that Special Operations Forces (SOF) must be prepared to conduct.<sup>3</sup>

Apparent in the limited research that exists is an overwhelming bias toward Title 10 (federal) forces. Research to date fails to even contemplate the use of National Guard Special Forces for homeland security operations. For instance, the available literature includes a significant discussion on the limitations imposed on military forces via the Posse Comitatus Act (PCA).<sup>4</sup> Stated simply, the PCA prohibits the use of federal military forces to enforce civil laws. One of the potential advantages to National Guard Special Forces, however, is the fact that the PCA is not applicable to the National Guard in Title 32 (state) status. Despite the bias toward federal forces, some literature discusses

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<sup>3</sup> Department of the Army, U.S. Army Field Manual (FM) 3-05, *Army Special Operations Forces*, September 20, 2006.

<sup>4</sup> Colonel Steven G. Buteau, "The Role of Special Operations Forces in U.S. Homeland Security and Homeland Defense," United States Army War College (March 2005).

possible roles for Special Forces.<sup>5</sup> Since the literature is focused only on active duty, federal forces, however, the roles and potential contributions are limited. Thus far, the possible functions identified include:

- Intelligence and Early Warning. Special Forces can contribute through “Red Team” analysis. In other words, Special Forces could provide analysis from the perspective of the terrorist, and provide valuable feedback to the homeland security community.
- Vulnerability Assessments. Special Forces can assess the vulnerability of critical infrastructure sites and assist in developing tactics, techniques and procedures to defend critical infrastructure.
- Counterterrorism Operations. In extreme circumstances, Special Forces can be employed to apprehend or attack terrorists.
- Counterproliferation Operations. In the event a weapon of mass destruction is located within the United States, Special Forces could be dispatched to seize or secure the weapon.

More recently, Colonel Chris Sorenson of U.S. Northern Command “introduced the question of whether Special Operations Forces should operate in the homeland to defeat an enemy that intends to fight us on our soil.”<sup>6</sup> This publication contemplates an improvised explosive device (IED) campaign in the homeland, and suggests that “an asymmetrical campaign in the homeland may entail the appropriate use of Special Operations Forces.”<sup>7</sup> Colonel Sorenson further advocates that the time to determine the appropriate role for SOF in the homeland is now, before any attack. Notably, Colonel Sorenson, echoing the workshop results above, concludes that the initial reaction of civilian and military leaders will be to attempt to engage the enemy in the foreign environment, saving “its limited SOF resources to attack a presumed foreign-based center of gravity (COG).”<sup>8</sup>

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<sup>5</sup> Buteau, “The Role of Special Operations Forces,” 7.

<sup>6</sup> Chris Sorenson, *Preparing for the End Game-SOF in the Homeland?* Hurlburt Field, Florida: Joint Special Operations University Press, June 2007.

<sup>7</sup> Ibid., 1.

<sup>8</sup> Ibid., 5.

The collected works of literature and doctrine addressing the use of Special Forces in domestic operations is almost non-existent. Therefore, researching the use of these forces for homeland security operations will make a new contribution to the body of homeland security literature.

### **C. METHODOLOGY**

The research contained in this thesis examines potential Special Forces roles, missions and tasks for homeland security. While the potential Special Forces missions identified will be doctrinally based and thus applicable to all Special Forces, this research recognizes that given their unique nature, National Guard Special Forces are more likely to be called upon to conduct homeland security operations. First, the doctrinal missions and roles of Special Forces will be analyzed in order to determine existing capabilities of value to homeland defense and security. This is critical, considering the overwhelming demands of the Global War on Terror leave no additional training time or spare forces in which to develop new capabilities. This doctrinal framework will be applied to analyze case studies involving the use of National Guard Special Forces in homeland security operations. This result will be compared to existing policies, laws and regulations in order to determine what changes are required to facilitate an enhanced role for National Guard Special Forces in homeland security.

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## **II. OVERVIEW OF U.S. ARMY SPECIAL FORCES**

This chapter will provide a brief overview of Army Special Forces, and will summarize some of the unique attributes that make Special Forces well suited to conduct a number of homeland security missions. In part, this chapter will attempt to explain what makes Special Forces “special.” The core competencies expected of Special Forces soldiers will be addressed, including how these competencies may be applicable to homeland security operations. Additionally, the organization and structure of Special Forces will be described in order to conceptualize how these forces might be rapidly deployed in domestic operations. Finally, this chapter will explain the core tasks and collateral activities of Special Forces.

### **A. CORE COMPETENCIES OF THE SPECIAL FORCES SOLDIER**

Since most Special Forces soldiers serve in another military occupational specialty before becoming Special Forces, they are older and generally more mature than the average soldier. On average, it takes about a full year or more to produce a Special Forces soldier, not including basic military training or advanced Special Forces skills training. As a result of this maturity and training, more is expected from Special Forces operators than the average soldier. Every Special Forces soldier is expected to be a master of the core competencies listed in the Army field manual *Special Forces Operations*,<sup>9</sup> as described below.

Warfighting. “SF soldiers are tactically competent and have advanced training in operations, intelligence, medical skills, engineering, communications, and heavy and light weapons.<sup>10</sup>” They have the capability to conduct light infantry operations unilaterally, or combined with other U.S. or allied forces.

Development of Human Infrastructure. Special Forces soldiers use locals in their area of operation to facilitate intelligence collection and to support other activities.

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<sup>9</sup> Department of the Army, Army Field Manual (FM) 3-05.20, *Special Forces Operations*, 2006.

<sup>10</sup> Ibid., 1-6.

Training. Teaching and training others is a hallmark of Special Forces operations. Special Forces soldiers are expected to be fully competent to assess training requirements, plan, execute and evaluate training courses for U.S. and friendly forces.

Interagency, Joint, Combined and Multinational Operations. Special Forces operations are inherently joint and interagency affairs. SF soldiers are expected to “understand the requirements of other agencies, services or nations to accomplish the mission.”<sup>11</sup> Ambiguous missions with conflicting agendas and goals are to be expected.

Physical Fitness. Due to the demands of operating in austere and hostile environments, Special Forces soldiers are expected to maintain high levels of fitness.

Interpersonal and Cross-Cultural Communications. Special Forces soldiers are capable of sizing up situations, building rapport and influencing people in order to obtain a desired result. Often, this relationship building will take place in foreign lands. Cross-cultural communications are essential to working with host nations or indigenous forces. Special Forces soldiers are trained to be proficient in another language targeted to their assigned area of operation. Additionally, cross-cultural communications skills and an understanding of native populations are essential to cultivating personal and professional relationships.

Problem Solving. Special Forces soldiers are conditioned to look for innovative solutions to complex problems. This “thinking outside the box” mentality is a point of pride to the Special Forces community. “SF soldiers analyze a situation and then adapt and apply doctrine, techniques, and methods in a culturally sensitive and suitable manner to resolve difficult issues in nonstandard situations.”<sup>12</sup> By approaching challenges in a flexible manner, Special Forces soldiers more easily adapt to uncertain situations.

Clandestine Infiltration and Exfiltration. Special Forces maintain capabilities in underwater SCUBA operations, military free-fall parachuting and other specialized skill sets needed to enter or exit an area of operation without drawing attention. All Special Forces soldiers are military parachutists.

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<sup>11</sup> Department of the Army, Army Field Manual (FM) 3-05.20, *Special Forces Operations*, 2006

<sup>12</sup> Ibid.

Political Awareness. Special Forces soldiers strive to understand the political implications in any given situation. They consider not only the implications to U.S. foreign policy, but also the political dynamics in the country in which they are operating.

Austere or Hostile Environments. “SF Soldiers maintain the ability to operate for extended periods in hostile, remote, and austere environments with little or no external support.”<sup>13</sup>

These core competencies, infused into a mature soldier through some of the most demanding training in the Army, produces an operator capable of using cross-cultural communications to produce results in ambiguous, austere environments. Many of these core competencies are advantageous to homeland security operations. For example, the nature of homeland security dictates that operations will take place within an interagency setting. As with any military domestic operation, political dynamics will likely impact operational realities. Within this environment, mature Special Forces soldiers, using their interpersonal skills and problem-solving abilities, can be expected to apply flexible, innovative techniques in order to accomplish the mission.

## **B. ORGANIZATION AND STRUCTURE OF SPECIAL FORCES**

By design, Special Forces operate in small units. The basic Special Forces element is the Special Forces Operational Detachment Alpha (SFODA) or “A Team.” In military terms, the SFODA is a combined arms team, meaning multiple capabilities are found within the unit. Specifically, each twelve-man SFODA has two communications sergeants, two medical sergeants, two engineers and two weapons sergeants. Based on the extensive training they receive in the Special Forces qualification course, each of these soldiers is considered an expert in their field. Rounding out the team is an intelligence sergeant, an operations sergeant, a warrant officer and a captain who commands the detachment. These Special Forces detachments are organized into companies and, in turn, battalions and groups. Given the nature of Special Operations, however, most missions are planned and executed in a manner where the SFODA is

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<sup>13</sup> Department of the Army, Army Field Manual (FM) 3-05.20, *Special Forces Operations*, 2006, 1-8.

operating largely independent from a higher headquarters. It is very possible that the SFODA could be the only representatives of the United States in a given area. Consistent in any mission is the expectation that the SFODA will serve as a “force multiplier.” In other words, ideal Special Forces operations are designed to enable the SFODA to apply their capabilities indirectly, working through a host nation or local forces. In the unconventional warfare arena, “the primary role of SF is to advise, train, and assist indigenous military and paramilitary forces.”<sup>14</sup> Due to the small size and limited logistical requirements, Special Forces teams are able to rapidly deploy, both domestically and during overseas combat operations. Other similarly sized conventional Army units share this advantage, but do not possess the same combined arms capabilities or advanced skills as a Special Forces detachment.

### **C. NATIONAL GUARD SPECIAL FORCES**

Fifteen states have Special Forces within their Army National Guard force structure. Collectively, two entire Special Forces groups, fielding 108 SFODAs, reside within the Army National Guard. National Guard soldiers serving in these units complete the same Special Forces qualification course as their active duty counterparts. Like all National Guard units, Army National Guard Special Forces units assemble once a month for training. Unlike other guard units, however, Special Forces generally require a greater time commitment from guardsmen. For example, instead of a two-week annual training period, Guard Special Forces soldiers normally complete a three-week annual training period. This annual training often takes place overseas while conducting real-world missions to train military forces from allied or friendly nations. Additionally, it is not uncommon for National Guard Special Forces to perform additional duty throughout the year in order to acquire or maintain language fluency, advanced skills such as military free-fall parachuting or military SCUBA courses, or to participate in training such as the Special Forces Advanced Urban Combat course. Like all Special Forces, Army National

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<sup>14</sup> Department of the Army, Army Field Manual (FM) 3-05.20, *Special Forces Operations*, 2006, 1-13.



Guard Special Forces units deploy in support of the Global War on Terror. When not deployed, they remain under the command of their home state governor.

## **D. CORE TASKS**

Seven core tasks constitute the basic functions of Special Forces. Like most all other military doctrine, the core tasks below are framed purely in terms of combat operations and do not consider domestic operations. Chapter VI details how some of these core tasks have potential homeland security applications.

### **1. Unconventional Warfare (UW)**

UW is defined as “a broad range of military and or paramilitary operations and activities, normally of long duration, conducted through, with, or by indigenous or other surrogate forces that are organized, trained, equipped, supported, and otherwise directed in varying degrees by an external source.”<sup>15</sup> UW operations can be conducted across the range of conflict against regular and irregular forces. These forces may or may not be state sponsored.”<sup>16</sup> The best contemporary example of UW performed by Special Forces is the initial stages of Operation Enduring Freedom. Special Forces infiltrated into Afghanistan where they trained, advised and led Northern Alliance forces in defeating the Taliban.

### **2. Foreign Internal Defense (FID)**

“FID is participation by civilian and military agencies of the government in any of the action programs taken by another government or other designated organization to free and protect its society from subversion, lawlessness, and insurgency.”<sup>17</sup> Current operations in Iraq constitute a FID mission, but also have overlapping elements of other core tasks. More specifically, Special Forces are involved with organizing, training and mentoring Iraqi Special Operations elements.

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<sup>15</sup> Department of the Army, Army Field Manual (FM) 3-05.20, *Special Forces Operations*, 2006, 3-1.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

### **3. Direct Action (DA)**

“DA operations are short-duration strikes and other small-scale offensive actions conducted as a special operation in hostile, denied, or politically sensitive environments and that employ specialized military capabilities to seize, destroy, capture, exploit, recover, or damage designated targets. DA differs from conventional offensive actions in the level of physical and political risk, operational techniques, and the degree of discriminate and precise use of force to achieve specific objectives.”<sup>18</sup> Killing or capturing high-value terrorist in Iraq or Afghanistan would be considered a direct action mission.

### **4. Special Reconnaissance (SR)**

“SR operations are reconnaissance and surveillance actions conducted as a special operation in hostile, denied, or politically sensitive environments to collect or verify information of strategic or operational significance, employing military capabilities not normally found in conventional forces. These actions provide an added capability for commanders and supplement other conventional reconnaissance and surveillance actions.”<sup>19</sup> The most often cited SR mission is the use of Special Forces during the first Gulf War to monitor and report on Iraqi troop movements in the days prior to ground combat operations.

### **5. Counterterrorism (CT)**

“CT is the full range of operations that include the offensive measures taken to prevent, deter, preempt, and respond to terrorism. There are three categories of CT operations: hostage rescue, recovery of sensitive material from terrorist organizations, and attacks against terrorist infrastructure.”<sup>20</sup>

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<sup>18</sup> Department of the Army, Army Field Manual (FM) 3-05.20, *Special Forces Operations*, 2006.

<sup>19</sup> Ibid., 3-2.

<sup>20</sup> Ibid.

## **6. Counterproliferation of Weapons of Mass Destruction (CP)**

CP may involve the seizing of weapons of mass destruction at their origin, during transport or at any other time before employment. This is a highly “specialized mission assigned to designated Special Operations Forces. Special Forces participation in CP is through the conduct of UW, SR, and DA. Special Forces operational detachments designated in national and theater contingency plans to participate in CP may be specially task organized, trained, and equipped. These designated Special Forces operational detachments respond as directed by the president, secretary of defense, or the geographic combatant commander to resolve specific situations arising from a proliferation incident. When a SFOD is tasked to perform a CP mission, it is strategic in nature.”<sup>21</sup>

## **7. Support to Information Operations (SIO)**

“SF supports IO core capabilities of electronic warfare, computer network operations, psychological operations, military deception, and operations security, in concert with specified supporting and related capabilities, to affect or defend information and information systems, and to influence decision making.”<sup>22</sup>

## **E. COLLATERAL ACTIVITIES**

Historically, in addition to the core tasks, Special Forces perform collateral activities, many which have homeland security applications. The most recent version of *Special Forces Operations*, the principal doctrinal guidance for SF, omitted any discussion of collateral activities.<sup>23</sup> Previous versions, as recent as June 2001, made it clear that the collateral activities discussed below were designed primarily for military operations other than war (MOOTW) and take advantage of the core competencies of Special Forces. “SF units conduct collateral activities in MOOTW using these inherent capabilities in performing their primary missions.”<sup>24</sup> The current version of *Special*

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<sup>21</sup> Department of the Army, Army Field Manual (FM) 3-05.20, *Special Forces Operations*, 2006.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> Department of the Army, Army Field Manual (FM) 3-05.30, *Special Forces Operations*, June 2001.

*Forces Operations* does not appear to limit SF missions to the core task. Rather, this doctrinal change appears to reflect the contemporary operating environment and demands of the Global War on Terror (GWOT). In other words, Special Forces are currently committed conducting GWOT missions related to their core tasks, and thus a doctrinal discussion of collateral activities is irrelevant. Professors David Tucker and Christopher Lamb discuss this omission in their recent book, *United States Special Operations Forces*.<sup>25</sup> In fact, Professors Tucker and Lamb suggest that the omission of collateral tasks relates to issues of supply and demand, and trace a trend toward expanding the domestic use Special Operations Forces prior to September 11, 2001.<sup>26</sup> As previously noted, however, all military doctrine is active component oriented; National Guard Special Forces will be used, at a minimum, by governors for state homeland security operations — if not as a broader, regional response force. Traditionally, Special Forces collateral activities included coalition support, combat search and rescue, counterdrug activities, humanitarian demining activities, foreign humanitarian assistance, security assistance and special activities.<sup>27</sup> These same collateral activities are some of the most likely homeland security missions for Special Forces; whether active component or National Guard. Chapter VI discusses how these collateral activities may be utilized in domestic operations.

### **1. Coalition Support / Special Forces Liaison Element (SFLE)**

This mission is designed to improve “the interaction and interoperability of coalition partners and U.S. military forces” during combat operations.<sup>28</sup> Special Forces are embedded with foreign armies in the combat theater and assist the coalition partner with communicating and synchronizing with adjacent U.S. forces. “SF personnel are well-suited for carrying out coalition support because of the skills they hone in the conduct of UW

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<sup>25</sup> David Tucker and Christopher J. Lamb, *United States Special Operations Forces*, New York: Columbia University Press, 2007, 164-168.

<sup>26</sup> *Ibid.*, 165.

<sup>27</sup> *Ibid.*

<sup>28</sup> Department of the Army, Army Field Manual (FM) 3-05.30, *Special Forces Operations*, June 2001.

operations, and because of their regional orientation and cultural awareness.<sup>29</sup> The Special Forces Liaison Elements “advise their foreign counterparts on U.S. military intentions and capabilities, provide training, provide global positioning system downlinks, and secure communications between the supported forces.”<sup>30</sup>

## **2. Combat Search and Rescue (CSAR)**

Combat Search and Rescue consists of “reporting, locating, identifying, and recovering and repatriating isolated personnel to friendly control.”<sup>31</sup> During combat operations, Special Forces have the capability to conduct CSAR due to their expertise in the core SF tasks.<sup>32</sup> Similarly, during homeland security operations, specifically DSCA events, Special Forces can provide teams to conduct search and rescue. Since most all Army formations can conduct rudimentary search and rescue, SF are best utilized for missions requiring specialized skills, such as operating in a maritime environment in boats or subsurface (SCUBA), wilderness or mountainous terrain requiring mountaineering skills, or situations where rapid deployment of small teams with organic communications equipment is advantageous.

## **3. Counterdrug Activities (CD)**

“CD activities are measures taken to detect, monitor, and counter the production, trafficking, and use of illegal drugs.”<sup>33</sup> For Special Forces, this generally means training a foreign nations’ military, or police forces, on critical skills required to conduct small unit CD operations in order to stop narcotics at their source, or before they enter the United States.<sup>34</sup> In domestic operations, National Guard Special Forces may take a more direct role by conducting SR in support of civilian police narcotics investigations. (see *infra*).

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<sup>29</sup> Department of the Army, Army Field Manual (FM) 3-05.30, *Special Forces Operations*, 2001.

<sup>30</sup> *Ibid.*

<sup>31</sup> *Ibid.*

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup> *Ibid.*

#### **4. Humanitarian Demining Activities (HD)**

Special Forces are sometimes employed to train host nation cadre in techniques to locate, identify, and destroy land mines and unexploded battlefield ordinance from previous conflicts. The Special Forces core competencies of training and cross-cultural communications make SF a logical choice for this mission. As previously noted, however, the operational demands of prosecuting the Global War on Terror have likely made this mission unfeasible for Special Forces.

#### **5. Foreign Humanitarian Assistance (HA)**

Foreign HA involves the use of military “personnel, equipment, and supplies to promote human welfare; to reduce pain, suffering, and hardship; and to prevent loss of life or destruction of property from the aftermath of natural or man made disasters.”<sup>35</sup> Special Forces are “uniquely suited to render rapid, effective HA in remote areas, particularly in an uncertain or hostile environment.”<sup>36</sup> Likewise, in the domestic realm, “ability to deploy on short notice to remote regions, familiarity with multi-agency operations, and limited logistics support requirements, all favor SF involvement in disaster relief operations.”<sup>37</sup>

#### **6. Security Assistance (SA)**

Security assistance missions are designed to enhance the capabilities of allied or friendly countries in order achieve U.S. goals in the particular area or region. The primary role of SF is to provide mobile training teams and other forms of training assistance tailored to meet the specific requirements of the nation requesting the assistance. The training provided by Special Forces may be to the host nation’s military, police or other governmental agency. Training interagency partners, especially civilian law enforcement agencies, is the domestic, homeland security corollary to foreign

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<sup>35</sup> Department of the Army, Army Field Manual (FM) 3-05.30, *Special Forces Operations*, 2001.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

security assistance missions. Special Forces can train civilian law enforcement agencies in order to enhance their ability to prevent, disrupt and respond to terrorist and terrorist attacks.

## **7. Special Activities (SA)**

SA missions are classified operations performed at the direction of the president, with congressional oversight. Generally, the legal parameters are defined by Executive Order 12333, *United States Intelligence Activities*. “When directed by the President, the Department of Defense performs special activities during war declared by Congress or during any period covered by a Presidential report under the War Powers Act.”<sup>38</sup>

## **F. SPECIAL FORCES EMPLOYMENT CRITERIA**

Special Operations Forces, including Army Special Forces, conduct two types of tasks. “First, they perform tasks that no other forces in DoD conduct, and second, they perform tasks that are conducted by DoD forces, but do so to a unique set of conditions and standards.”<sup>39</sup> Special Operations Forces are small in number and cannot be mass produced. Considering the time and resources involved in producing special operators, mission criteria attempts to prevent the misuse of Special Operations Forces. In short, the doctrinal criteria discussed below attempts to provide a checklist in order to assist commanders in determining if some other element rather than Special Forces should be conducting the mission. If conventional forces possess the capability to conduct the mission, then the proposed mission is not generally considered appropriate for Special Forces. Likewise, in order to avoid mission failure due to the assumption that Special Forces can do anything, the criteria attempts to force a realistic comprehension of the inherent limitations found in Special Forces units. While the doctrinal mission criteria below are designed to evaluate proposed missions during combat operations, the framework is still applicable in homeland security scenarios.

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<sup>38</sup> Department of the Army, Army Field Manual (FM) 3-05.30, *Special Forces Operations*, 2001.

<sup>39</sup> Special Operations Forces Reference Manual, Joint Special Operations University (JSOU), Hurlburt Field, Florida: The JSOU Press, June 2005 (Revised July 2006), 1-3.

## Criteria for Employing Special Forces

Current military doctrine dictates specific criteria to evaluate if a mission is suitable, feasible and acceptable for Special Forces.

1. Is this an appropriate mission for Special Forces? In other words, does the proposed mission require Special Forces unique skills and abilities in order to produce the desired effect? Normally, Special Forces are arrayed against vital strategic or operational targets. “Commanders should not use Army Special Operations Forces as a substitute for other forces.”<sup>40</sup>

2. Does the mission support the theater campaign plan? “If the mission does not support the theater campaign plan, more appropriate missions are probably available for Army Special Operations Forces.”<sup>41</sup>

3. Is the mission operationally feasible? Is the proposed mission realistically within the capabilities of Special Forces? “Army Special Forces are not structured for force on force warfare. They should not assign missions that are beyond SOF capabilities, limitations, and vulnerabilities.”<sup>42</sup>

4. Are the required resources available to conduct the mission? Due to the small size of Special Forces units, some missions may require support from conventional forces.

5. Does the expected outcome justify the risk? Commanders must recognize the “high value and limited resources of Army Special Operations Forces.”<sup>43</sup> These factors must be weighed against any proposed mission to ensure the potential strategic or operational gain is balanced against the risk of any proposed mission. The risk may involve negative impact to U.S. diplomatic or political interest.<sup>44</sup>

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<sup>40</sup> Department of the Army, U.S. Army Field Manual (FM) 3-05.20, *Special Forces Operations*, 2006, 1-14.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.



### **Employment Criteria Applied to Homeland Security Missions**

As the case studies below demonstrate, Army Special Forces, particularly National Guard Special Forces, will be employed in homeland security missions. Like any military mission, therefore, the potential exists for the misuse of Special Forces. The domestic use of military forces, especially in an armed role, is extremely politically sensitive. Given that fact, a mission that would normally be assigned to a conventional force unit may be suitable for Special Forces. However, considering the small size of Special Forces, performing routine security force missions is unrealistic. Likewise, the limited resources found in Special Forces, especially in terms of vehicles, may render Special Forces unsuitable for certain homeland security missions. Thus, as demonstrated below in the case studies, the employment of Special Forces in homeland security missions, like combat operations, should be limited to missions that require specialized capabilities, or missions undertaken in unique environments or where precise standards are required.

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### **III. CASE STUDIES — U.S. SPECIAL FORCES IN HOMELAND SECURITY OPERATIONS**

This chapter highlights two examples of Special Forces support to homeland security. The first case study examines how the Florida Army National Guard uses Special Forces in domestic operations. The second example, from Hurricane Katrina, describes what could be Special Forces' finest hour in terms of domestic operations. In each case study, the uses of Special Forces are analyzed and evaluated against the doctrinal employment criteria for Special Forces.

#### **A. FLORIDA ARMY NATIONAL GUARD HOMELAND SECURITY OPERATIONS.**

The Florida Army National Guard provides a good example of potential homeland security roles and missions for Special Forces. The National Guard leadership in Florida utilizes its Army National Guard Special Forces for both domestic special reconnaissance missions and for training interagency law enforcement partners. Florida also uses Special Forces to conduct search and rescue. However, this case study will focus on special reconnaissance and training. The Hurricane Katrina case study below describes search and rescue operations.

Florida is the home to the 3<sup>rd</sup> Battalion, 20<sup>th</sup> Special Forces Group (Airborne). The Florida Army National Guard force structure contains the 3<sup>rd</sup> Battalion Headquarters, the Battalion Support Company and two Special Forces line companies. Florida's experience with hurricanes has required the National Guard to take an active role in civil support operations. Florida also contends with floods, tropical storms, wildfires and other natural disasters requiring National Guard support.<sup>45</sup> Additionally, like other states, Florida conducts National Guard counterdrug support operations. Unlike other states, however, Florida executes a large part of their counterdrug support mission as a Special Forces operation.

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<sup>45</sup> Florida Division of Emergency Management. <http://www.floridadisaster.org/index.asp> (accessed December 2, 2007).

Consistent with doctrine for combat operations, during emergency or contingency operations, the Special Forces personnel are maintained as a strategic asset managed by the Florida National Guard Joint Force Headquarters, rather than assigned to a subordinate task force.<sup>46</sup> Special reconnaissance is one of the primary missions assigned to SF by the Florida National Guard Joint Force Headquarters.

### **1. Special Reconnaissance — The Rapid Impact Assessment Team**

Florida's National Guard Special Forces are fully integrated into all-hazards planning through Florida Emergency Support Function (ESF) 13 – Military Support. Specifically, Florida's ESF 13 directs the Florida Adjutant General to field Rapid Impact Assessment Teams (RIAT) in direct support of the Division of Emergency Management.<sup>47</sup> “The RIAT teams deploy prior to a disaster, when possible, or immediately following a disaster.”<sup>48</sup> “The Rapid Impact Assessment Team (RIAT) concept was developed by the State of Florida in the aftermath of Hurricane Andrew.”<sup>49</sup> Andrew struck South Florida on August 24, 1992, and resulted in one of the worse natural disasters in U.S. history.<sup>50</sup> “The mission of the RIAT team is to rapidly mobilize and deploy to a disaster area and jointly, with local officials, determine and report immediate victim needs (food, water, shelter, medical, security) and assess and report the associated loss of, or damage to supporting infrastructure (utilities, communications, transportation, medical facilities, emergency services) following a major or catastrophic disaster.”<sup>51</sup> The RIAT mission is an interagency operation. The actual mission is conducted under the authority of the Florida Department of Emergency Management.<sup>52</sup> Team members come

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<sup>46</sup> John Pelleriti, Lieutenant Colonel, Assistant Operations Officer, J3, Florida National Guard Joint Force Headquarters. Interview by author, December 3, 2007.

<sup>47</sup> Florida Comprehensive Emergency Management Plan 2004, Appendix XIII: Emergency Support Function 13 – Military Support. February 1, 2004, 2.

<sup>48</sup> Ibid.

<sup>49</sup> Florida Army National Guard, Special Forces Missions.  
<http://www.floridaguard.army.mil/careers/sf.aspx?id=46> (accessed December 3, 2007).

<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

from the Florida Army National Guard Special Forces Battalion and other governmental agencies.<sup>53</sup> The Florida Special Forces soldiers excel at Defense Support to Civil Authorities in large part due to their abilities to build rapport in the interagency environment.<sup>54</sup> For example, SF soldiers work hand in hand with the Florida State Fire Marshal's office — specifically, personnel from the State Bureau of Fire Prevention — when assigned to RIAT teams.<sup>55</sup> “Upon activation, these personnel report to a pre-designated staging area and report to a team leader from the Florida National Guard” (SF Personnel).<sup>56</sup> The interagency RIAT responsibilities of the fire marshal's personnel include “assessing and evaluating the status of emergency services such as fire apparatus, fire stations and facilities, personnel and needs assessment associated with the fire service in a stricken area.”<sup>57</sup> The fire marshal personnel anticipate deployments of up to 96 hours in length.<sup>58</sup> “The ability of Special Forces personnel to rapidly deploy by aircraft or other means is the key to accomplishing the RIAT mission.”<sup>59</sup> “Special Forces personnel employ high-frequency and satellite communications devices to establish and maintain communication during the mission.”<sup>60</sup> “This allows the rapid, “real time” reporting on the ground conditions at the disaster or emergency site.”<sup>61</sup> In addition to the communications specialist found on a Special Forces detachment, the engineers and medics can also provide expertise to the interagency venture. Likewise, the overall capabilities of the Special Forces detachment provide security for the collective RIAT team during contingency and emergency operations.

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<sup>53</sup> Florida Army National Guard, Special Forces Missions.

<sup>54</sup> Pelleriti, Interview by author, December 3, 2007.

<sup>55</sup> Florida State Fire Marshal. <http://www.fldfs.com/sfm/esf/esf49.htm> (accessed December 3, 2007).

<sup>56</sup> Ibid.

<sup>57</sup> Ibid.

<sup>58</sup> Ibid.

<sup>59</sup> Florida Army National Guard, Special Forces Missions.  
<http://www.floridaguard.army.mil/careers/sf.aspx?id=46> (accessed December 3, 2007).

<sup>60</sup> Ibid.

<sup>61</sup> Ibid.

## 2. Exemplar — Hurricane Charley — August 9-14, 2004

Hurricane Charley struck the Southwest coast of Florida as a category 4 hurricane on August 13, 2004.<sup>62</sup> “The hurricane traversed the Florida peninsula, resulting in a swath of destruction across the state.”<sup>63</sup> Charley’s 75 knot winds caused an estimated \$6.755 billion in damages in Florida.<sup>64</sup> At least nine people in Florida died as a direct result of Hurricane Charley, in addition to another twenty deaths in Florida indirectly caused by the hurricane.<sup>65</sup> This was the worst hurricane to hit Florida since Hurricane Andrew in 1992.<sup>66</sup> By 7:00 a.m. on the morning of August 14, a RIAT team under the leadership of National Guard Special Forces, and consisting of state interagency communications officials and others deployed to the impact area in Charlotte County, Florida, to assess the severity of Charley’s impact.<sup>67</sup> In Charlotte County alone, four fire stations were destroyed; three hospitals were knocked out of service, while two airport hangers, the county emergency operations center and two shelters were destroyed.<sup>68</sup> Five additional reconnaissance teams comprised of National Guard Special Forces soldiers deployed in the aftermath of Charley.<sup>69</sup>

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<sup>62</sup> Richard J. Pasch, Daniel P. Brown, and Eric S. Blake, National Weather Service, National Hurricane Center Tropical Cyclone Report. *Hurricane Charley*. October 18, 2004, Revised January 5, 2005.

<sup>63</sup> Ibid.

<sup>64</sup> Ibid.

<sup>65</sup> Ibid.

<sup>66</sup> Ibid.

<sup>67</sup> Hurricane Charley Situation Report # 7. Florida State Emergency Response Team, State Operations Center, August 14, 2004, and State Operations Center Briefing Slides, August 13, 2004.

<sup>68</sup> Ibid.

<sup>69</sup> Ibid.

### **3. Special Reconnaissance — The Counterdrug Operational Detachment Alpha**

Each state's National Guard is congressionally authorized to provide counterdrug support to civilian law enforcement agencies.<sup>70</sup> This program “provides skilled personnel, specialized equipment, and facilities to support law enforcement agencies and community-based programs in response to the drug threat.”<sup>71</sup>

At least two of the program areas within the counterdrug program are ideally suited for Special Forces: Reconnaissance/Observation and Subsurface/Diver Support. The reconnaissance mission involves

observation by land or water to detect and report illegal drug activities that include, but are not limited to, cultivating marijuana, suspected isolated drug trafficking airstrips, drug drop zones, drug trafficking corridors, illegal laboratories, suspicious aircraft, watercraft or motor vehicles.<sup>72</sup>

Since successful reconnaissance and/or observation is often dependant on concealment, many of the tactics, techniques and procedures employed in Special Forces Special Reconnaissance missions are used in this program. The ability to report the activity at the target site is a critical component of both SF Special Reconnaissance missions and the counterdrug ground reconnaissance program. Similarly, the Subsurface/Diver Support mission is designed to conduct “inspections of commercial vessel hulls within the U.S. territorial waters or U.S. maritime ports of entry (POE) through the use of sidescan radar or divers to detect alien devices or containers attached to the vessel hulls, or other underwater activities.”<sup>73</sup> Since Special Forces units include combat divers, it was only logical for Florida to turn to Special Forces to conduct this underwater special reconnaissance mission.

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<sup>70</sup> 32 USC 112.

<sup>71</sup> Joint Chiefs of Staff, *Joint Counterdrug Operations*, Joint Publication 3-07.4. (Washington, DC: Joint Chiefs of Staff, June 13, 2007), II-19 [Publication on-line]; available from <http://www.dtic.mil/doctrine/jpoperationsseriespubs.htm> (accessed December 1, 2007).

<sup>72</sup> National Guard Bureau, *National Guard Counterdrug Support*, National Guard Regulation 500-2/Air National Guard Instruction 10-801 (Arlington, VA: Secretaries of the Army and Air Force), 10 [http://www.ngbpdn.ngb.army.mil/pubs/500/ngr500\\_2.pdf](http://www.ngbpdn.ngb.army.mil/pubs/500/ngr500_2.pdf) (accessed December 1, 2007).

<sup>73</sup> Ibid.

The Florida National Guard apparently has recognized these critical similarities and has organized their counterdrug reconnaissance and dive program around a “Counterdrug Operational Detachment Alpha,” mirroring the standard configuration of a SF Detachment.<sup>74</sup> This unit is made up of Special Forces soldiers, who volunteer for full-time National Guard duty in addition to their traditional National Guard unit requirements.<sup>75</sup>

Florida’s Counterdrug Operational Detachment Alpha (CDODA) has conducted successful dive operations in support of civilian law enforcement since 1990.<sup>76</sup> For example, in December 2005, members of the Florida National Guard CDODA conducted a week-long dive operation in support of the U.S. Customs and Border Protection Agency. The mission was to search “cruise and cargo ships’ bottoms for parasitic devices used to transport illegal drugs into the United States.”<sup>77</sup> The counterdrug dive operation was an interagency operation that allowed the SF soldiers to work with Customs and Border Protection, the Florida Fish and Wildlife Commission and Miami Dade firefighters.<sup>78</sup>

#### **4. Training — Counterdrug Training Academy**

Florida’s Special Forces soldiers also conduct training for civilian law enforcement training under the auspices of the counterdrug program. As previously discussed, training other military, paramilitary or law enforcement agencies is a core competency of Special Forces. The curriculum is “designed to teach military skills to law enforcement officers so that they may more safely and efficiently conduct

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<sup>74</sup> Shawn Keen, Master Sergeant, Detachment Operations Sergeant, Counter Drug Operational Detachment Alpha, Florida National Guard Joint Force Headquarters. Interview by author, December 4, 2007.

<sup>75</sup> Keen, Interview.

<sup>76</sup> National Guard Bureau, *The Catalyst*, Second Quarter 2006 (Arlington, VA: Secretaries of the Army and Air Force).

<sup>77</sup> Ibid.

<sup>78</sup> Ibid.



counterdrug operations in demanding rural environments.”<sup>79</sup> The training academy is located at the Camp Blanding Military Reservation. Camp Blanding is a state-owned military facility encompassing 72,000 acres in Northeast Florida.<sup>80</sup> The training courses currently conducted by the Florida Counterdrug Training Academy include:<sup>81</sup>

Tactical Three-Gun Marksmanship. During a five-day program, police officers receive instruction on pistol, shotgun and carbine marksmanship. This course is designed for SWAT officers, but is open to all law enforcement officers. The training includes both classroom instruction and live-fire ranges.

Rural Operations. This course is conducted in either a “basic” or “advanced” format and is designed for law enforcement officers working in rural environments. The rural operations course includes training in land navigation, tracking and countertracking, booby traps, camouflage, movement techniques and mission planning. The course concludes with a practical exercise in the field.

Maritime Operations. Designed to teach law enforcement officers to conduct operations on or in maritime environments, this course is conducted over a five-day period. Class subjects include: Zodiac boat driving, beach landings, water survival, surface swimming, maritime hazards, harbor surveillance, and helo-cast operations.

Tactical Medic. “This course is specifically designed for EMTs or paramedics assigned or attached to tactical teams.” The instruction includes combat casualty care, field medicine, medical evacuation, tourniquets, and decompression.

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<sup>79</sup> Florida National Guard Counterdrug Training Academy, “Course Descriptions,” available from [http://www.floridacounterdrug.com/fcta/fcta\\_home.htm](http://www.floridacounterdrug.com/fcta/fcta_home.htm) (accessed December 3, 2007).

<sup>80</sup> Florida National Guard, Training Sites. Available from <http://www.floridaguard.army.mil/read.asp?did=539> (accessed December 3, 2007).

<sup>81</sup> Florida National Guard, Florida Counterdrug Training Academy.

In addition to the standard courses discussed above, the Florida Counterdrug Training Academy offers custom-designed courses for law enforcement agencies.<sup>82</sup> Like all other aspects of the counterdrug program, a nexus must exist between the training and narcotics enforcement.<sup>83</sup>

## **5. Analysis**

This case study demonstrates a limited, but almost ideal usage of Special Forces in domestic operations. The Florida National Guard's pattern and practice adheres closely to Army doctrine, despite the dearth of specific domestic operational doctrine. When employed, the Special Forces are used in a manner that parallels and complements their wartime missions. These tasks do not drain precious resources or training time away from training for wartime or federal missions. Florida utilizes Special Forces in operations playing to the strengths of Special Forces. Not only does the Florida National Guard employ Special Forces to conduct the core SF task of special reconnaissance, but, by maintaining control of their Special Forces elements at the Joint Force Headquarters level, they ensure this versatile asset is engaged at the strategic or operational level of domestic operations as intended. Likewise, leveraging Special Forces to conduct training of interagency law enforcement partners takes advantage of a core competency of Special Forces. The training curriculum exploits the skills and capabilities of Special Forces soldiers. For example, all SF soldiers have significant experience operating in rural environments prior to graduating from the Special Forces Qualification Course. Special Forces weapons sergeants are trained to be proficient in small arms used in this training program. Likewise, Special Forces combat divers are adept at conducting the skills covered in the maritime operations course, and Special Forces medical sergeants possess the skills required to instruct the tactical medic course. Further, by training interagency law enforcement partners, Florida not only enhances interagency relationships, but they

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<sup>82</sup> Florida National Guard Counterdrug Training Academy, "Course Descriptions."

<sup>83</sup> 32 USC 112.

serve to multiply the overall state homeland security capabilities. This training role may have the additional benefit of minimizing the necessity of using National Guard forces in a law enforcement role.

## **6. Special Forces Employment Criteria**

While the doctrinal employment criteria is designed to evaluate potential wartime combat operations, an examination of Florida's use of Special Forces may still be helpful in determining the proper roles and missions for Special Forces in domestic operations. The evaluation below discusses each of the five employment criteria for Special Forces.

**Is this an appropriate mission for Special Forces? In other words, does the proposed mission require Special Forces unique skills and abilities in order to produce the desired effect?**

- As discussed herein, Special Forces are ideally suited for the missions assigned by the Florida National Guard. The SF soldiers bring a rapid response and specialized skills sets that complement interagency partners. The familiarization with interagency environments, and emphasis on rapport building found in Special Forces, enable these domestic missions. In addition, since training others is a core capability for Special Forces, they are ideally suited to conduct training for law enforcement agencies. This training may save lives or, at a minimum, enhance interagency operations during actual times of crisis.

**Does the mission support the theater campaign plan?**

- Florida's use of Special Forces to conduct special reconnaissance in emergency and contingency operations is in support of the Florida Comprehensive Emergency Management Plan. Likewise, federal law requires governors submit an annual state drug interdiction and

counterdrug activities plan before any federal funds may be used to place National Guard service members on counterdrug duty.<sup>84</sup>

**Is the mission operationally feasible? Is the proposed mission realistically within the capabilities of Special Forces?**

- In the case at hand, assuming the SF battalion is not deployed for an overseas, federal mission, the Florida Special Forces units have the capability to accomplish special reconnaissance during most emergency and contingency operations. Given a weapon of mass destruction (WMD) event, a more technical reconnaissance would be required from the state's National Guard Civil Support Team.<sup>85</sup> Both the counterdrug and training missions require SF personnel willing to volunteer to perform full-time National Guard duty. With these limitations in mind, it is fair to say that the domestic missions contemplated here are feasible for Special Forces.

**Are the required resources available to conduct the mission?**

- With the exception of vehicles, the organic equipment normally assigned to a Special Forces company is sufficient to undertake most domestic special reconnaissance missions. Tactical, high-mobility vehicles may be required for some missions. While not organic to a Special Forces company, these vehicles are found at the Special Forces battalion level. In any event, these could be temporarily allocated from another National Guard unit if unavailable to Special Forces. Experience has shown, however, during some maritime operations, normal watercraft assigned to Special Forces is inadequate. Florida has augmented the rubber tactical

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<sup>84</sup> 32 USC 112(C).

<sup>85</sup> For information on the National Guard Civil Support Team, See: <http://www.ngb.army.mil/features/HomelandDefense/cst/factsheet.html> (accessed December 3, 2007).

boats normally found in Special Forces units with metal rescue boats. The rubber boats often became damaged operating in post-hurricane, flooded urban environments.<sup>86</sup>

**Does the expected outcome justify the risk?**

- Special Reconnaissance conducted during emergency or contingency operations potentially save lives and property. Further damage and suffering can be mitigated through an efficient government response. This response is dependent on accurate information regarding the situation on the ground. Special Forces fill this function in Florida. The acceptability of National Guard soldiers performing special reconnaissance in direct support of civilian law enforcement's efforts to suppress illegal drugs is at least debatable. All governors are required to submit an annual plan describing their National Guard Counterdrug operation.<sup>87</sup> Presumably the governor of Florida has identified and accepted the associated risk of National Guard soldiers providing direct support to law enforcement. In fact, since a majority of states perform this specific National Guard counterdrug function, it is arguable that Florida, by using Special Forces professionals, has a lower residual risk than other states. None of the domestic operations discussed can interfere with combat readiness, since all of the Special Forces soldiers performing domestic support missions are subject to being deployed overseas for federal service.<sup>88</sup>

**B. SPECIAL FORCES TASK FORCE — HURRICANE KATRINA**

On August 29, 2005, Hurricane Katrina slammed into Louisiana, and later Mississippi, with winds upward of 130 miles per hour. The resulting catastrophe killed

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<sup>86</sup> Richard Hall, Major, Executive Officer, 3<sup>rd</sup> Battalion, 20<sup>th</sup> Special Forces Group (Airborne), Florida Army National Guard. Interview by author, December 4, 2007.

<sup>87</sup> 32 USC 112(a).

<sup>88</sup> 32 USC 112(b)(2)(C).

over thirteen thousand people, flooded New Orleans and was the most destructive natural disaster in American history.<sup>89</sup> By September 9, over forty-one thousand National Guard troops from forty-five states, the District of Columbia, the Virgin Islands, and Puerto Rico were operating in Mississippi and Louisiana.<sup>90</sup> This unprecedented National Guard response included a relatively diminutive portion of Special Forces that performed some of the most critical tasks, making a momentous impact during the response and recovery operations. Special Forces units from Mississippi, Alabama, Florida, California, Utah and Colorado all deployed to the region on the orders of their home state governor, through the Emergency Management Assistance Compact (EMAC). Initially they were ordered to State Active Duty (SAD). Later, on September 7, 2005, the Department of Defense authorized National Guard forces to be placed into Title 32 status, retroactive to August 29.<sup>91</sup>

Mississippi is the home of 2<sup>nd</sup> Battalion, 20<sup>th</sup> Special Forces Group (Airborne). At the time Katrina hit, the unit was conducting its final preparations to mobilize in September for an overseas deployment. A minimum of two SF detachments from C Company, 2<sup>nd</sup> Battalion, 20<sup>th</sup> SFG(A), MSARNG responded to provide immediate relief in Southern Mississippi.<sup>92</sup> The composite teams were equipped with rubber inflatable boats and satellite communications systems. An additional cell, comprised primarily of Special Forces officers, assisted in planning and coordinating operations at the state

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<sup>89</sup> The White House, *The Federal Response to Hurricane Katrina: Lessons Learned*, February 2006, 5.

<sup>90</sup> Lynn E. Davis, Jill Rough, Gary Cecchine, Agnes Gereben Schaefer and Laurinda L. Zeman, *Hurricane Katrina, Lessons for Army Planning and Operations* (Santa Monica, CA: RAND Corporation), 2007.

<sup>91</sup> United States Senate, *Hurricane Katrina, A Nation Still Unprepared, Special Report of the Committee on Homeland Security and Governmental Affairs*. Washington, DC, 2006. Senate Report 109-322, 508.

<sup>92</sup> Tim Ochsner, Major, Commander, C Company, 2<sup>nd</sup> Battalion, 20<sup>th</sup> Special Forces Group (Airborne), Mississippi Army National Guard. Interview with author, December 2, 2007.

emergency operations center.<sup>93</sup> After approximately ten days, the Mississippi Special Forces soldiers were released to return home in order to make final preparations for their deployment.<sup>94</sup>

Less than twenty-four hours after Katrina made landfall, the Alabama National Guard deployed approximately seventy-five Special Forces Soldiers to Alabama's Gulf Coast, equipped with agile inflatable boats.<sup>95</sup> This force helped rescue people on the coast, but was soon diverted to help search for victims in New Orleans.<sup>96</sup>

Governor Arnold Schwarzenegger ordered California National Guard elements, including a Special Forces detachment from the 19<sup>th</sup> Special Forces Group, to assist New Orleans on September 1, 2005.<sup>97</sup> Likewise, the governor of Utah sent Special Forces soldiers from the 19<sup>th</sup> Special Forces based in Utah to New Orleans.<sup>98</sup>

Eventually, all of these Special Forces units formed an adhoc Special Forces Task Force under the leadership of the Florida National Guard's 3<sup>rd</sup> Battalion, 20<sup>th</sup> Special Forces Group (Airborne). The Florida-based Special Forces unit received a warning order from state headquarters on August 27, 2005.<sup>99</sup> This warning order placed the Special Forces on alert for support operations including the Florida RIAT mission. The following day, they received the final execution order.<sup>100</sup> On August 29, the same day Katrina made landfall, nineteen SF soldiers departed Florida.<sup>101</sup> Initially, the Florida Special Forces element conducted search and rescue operations in Biloxi, Mississippi, on August 30 and 31.<sup>102</sup> On September 1, the unit received orders to deploy to Belle Chase

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<sup>93</sup> Ochsner, Interview.

<sup>94</sup> Ibid.

<sup>95</sup> Steve Alvarez, Captain, U.S. Army "Alabama Guard Provides Critical Disaster Response," *American Forces Press Service*, September 3, 2005.

<sup>96</sup> Ibid.

<sup>97</sup> Press Release, Office of the Governor, Arnold Schwarzenegger. September 1, 2005.

<sup>98</sup> "Guard Adding 18 to Katrina Effort," *Deseret News* (Salt Lake City, UT) September 14, 2005.

<sup>99</sup> After Action Review, Special Forces Task Force. Presented to the Army National Guard Special Operations Forces Advisory Council (SOFAC), January 25, 2006.

<sup>100</sup> Ibid.

<sup>101</sup> Ibid.

<sup>102</sup> Ibid.

Naval Air Station in New Orleans to conduct search and rescue operations.<sup>103</sup> While en-route to New Orleans, the 20<sup>th</sup> Group Headquarters in Alabama informed the Florida battalion commander that he would be taking charge of all 20<sup>th</sup> Group elements in New Orleans.<sup>104</sup> In fact, the taskforce eventually was comprised of elements from both the Army National Guard Special Forces 19<sup>th</sup> Group and 20<sup>th</sup> Group.<sup>105</sup> The Florida Special Forces element arrived in New Orleans on the night of September 1, 2005, established an operations center at Harrah's Casino and consolidated elements attached from other states.<sup>106</sup>

## **1. Search and Rescue Operations in New Orleans**

Once in New Orleans, the lead elements of the Special Forces Task Force immediately made contact with the remnants of the New Orleans Police Department (NOPD). The SF soldiers apprised the NOPD of their maritime capabilities and simply asked, "How can we help you?"<sup>107</sup> This initial positive contact with the civilian authorities likely set the tone for a very successful working relationship during the course of operations in New Orleans. By the morning of September 2, 2005, the Special Forces Task Force was conducting joint search and rescue operations on the water with the NOPD.<sup>108</sup> One NOPD officer, wherever possible, joined in with a team of Special Forces soldiers in their boats.<sup>109</sup> Others teams conducted ground operations using high-mobility vehicles to conduct search and rescue operations.<sup>110</sup> Once again, depending upon availability, NOPD officers accompanied the Special Forces Soldiers. During the

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<sup>103</sup> After Action Review, Special Forces Task Force.

<sup>104</sup> Derek Lipson, , Major, Deputy Commander, Hurricane Katrina Special Forces Task Force, 3<sup>rd</sup> Battalion, 20<sup>th</sup> Special Forces Group (Airborne) Florida Army National Guard. Interview with author, December 20, 2007.

<sup>105</sup> In reality, all of the National Guard forces were operating under Title 32 status, and therefore under the command and control of their home state governor.

<sup>106</sup> Lipson, Interview.

<sup>107</sup> Ibid.

<sup>108</sup> After Action Review, Special Forces Task Force.

<sup>109</sup> Lipson, Interview.

<sup>110</sup> Ibid.



first day alone, the Special Forces rescued 803 people.<sup>111</sup> That same day, the Special Forces Task Force made contact with active component Army helicopters from Fort Hood and U.S. Air Force Special Operations units.<sup>112</sup> Using these relationships, SF teams began conducting air operations on September 3, in addition to ongoing ground and water operations.<sup>113</sup> The SF soldiers would fly on Blackhawk helicopters to groups of stranded citizens.<sup>114</sup> In most cases, the helicopters could not land due to the crush of people rushing the aircraft.<sup>115</sup> The SF soldiers would disembark while the helicopter took off and orbited overhead.<sup>116</sup> The SF soldiers would calm and organize the people into serials to board the aircraft.<sup>117</sup> Once they had the landing zone secure, the SF soldiers would radio the aircraft to return and begin loading.<sup>118</sup> The Special Forces Task Forces combined ground, air and water operations rescued over a four thousand civilians from highway overpasses, houses and other locations.<sup>119</sup>

DATE	GROUND/WATER RESCUE	AIR RESCUE	TOTAL
2 SEP	803	0	803
3 SEP	500	1030	1530
4 SEP	795	258	1053
5 SEP	649	37	686
6 SEP	105	7	112
7 SEP	18	1	19
8 SEP	4	0	4
TOTALS	2874	1333	4207

Table 1. Summary of Special Forces Task Force Search and Rescue Operations in New Orleans.

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<sup>111</sup> After Action Review, Special Forces Task Force.

<sup>112</sup> Ibid.

<sup>113</sup> Ibid.

<sup>114</sup> Lipson, Interview.

<sup>115</sup> Ibid.

<sup>116</sup> Ibid.

<sup>117</sup> Ibid.

<sup>118</sup> Ibid.

<sup>119</sup> After Action Review, Special Forces Task Force.

## **2. Coalition Support/Special Forces Liaison Element—Law Enforcement Coordination**

In addition to the immediate life-saving search and rescue operations, one of the most significant but unsung roles played by the Special Forces Task Force was organizing and running the law enforcement operations center in downtown New Orleans. Located at Harrah's Casino in downtown New Orleans, the law enforcement operations center provided direction and unity of purpose for the multitude of state and local law enforcement agencies pouring into New Orleans. Since many state and local law enforcement agencies self deployed, the exact figures of law enforcement agencies supporting operations in New Orleans may never be known.<sup>120</sup> In Louisiana, 27,727 personnel deployed through the EMAC process alone.<sup>121</sup> For example, the New York Police Department sent more than three hundred officers, the New York State Police sent more than one hundred officers and the New York Department of Corrections sent more than two hundred and fifty officers.<sup>122</sup> This is in addition to the hundreds of FBI, ATF, DEA, U.S. Marshals Service, Immigration and Customs Enforcement (ICE), Customs and Border Patrol, and Bureau of Prisons officers and agents who deployed to New Orleans.<sup>123</sup> Absent amid this crush of dedicated and well-intentioned law enforcement was a lack of any organization or command and control. The New Orleans Police Department collapsed and, therefore, these out-of-town peace officers had no organization, sectors or divisions to rely on.<sup>124</sup> Thus, the state and local law enforcement arriving into New Orleans were not tied into any organized plan with a specific task or purpose. As a result, law enforcement agencies from outside jurisdictions lacked any situational awareness of where they were most needed. During their initial search and

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<sup>120</sup> United States House of Representatives, Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *A Failure of Initiative, The Final Report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina*. February 15, 2006, 109<sup>th</sup> Congress, 2<sup>nd</sup> Session, 250.

<sup>121</sup> *Ibid.*

<sup>122</sup> *Ibid.*, Appendix B – “What Went Right,” 127.

<sup>123</sup> United States House of Representatives, *Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina*, 252-256.

<sup>124</sup> *Ibid.*, 241.

rescue operations, the Special Forces soldiers encountered various law enforcement agencies that were not seemingly operating with a specific task or purpose.<sup>125</sup> Recognizing this fact, the Special Forces soldiers, who were already tied in with at least part of the New Orleans Police Department, started spreading the word to the various law enforcement agencies they encountered to report to Harrah's Casino to be effectively incorporated into the response and recovery plan.<sup>126</sup> This unilateral initiative brought order to a theretofore disorganized, disjointed operation. The word spread quickly, and Harrah's became the operations center for law enforcement.<sup>127</sup> "Local, state and federal law enforcement working in New Orleans began 9:00 a.m. meetings at Harrah's."<sup>128</sup> "These meetings enabled the law enforcement entities to meet face to face and coordinate critical missions."<sup>129</sup> The Special Forces Task Force coordinated with the USS Iwo Jima to receive satellite images and graphics once it arrived in the Port of New Orleans.<sup>130</sup> Using these products, the Special Forces Task Force, in coordination with the NOPD, divided the city into operational sectors.<sup>131</sup> Each morning, a small Special Forces element, with NOPD representatives, would conduct an aerial reconnaissance of the city and identify sectors of immediate concern.<sup>132</sup> Later, at the morning meeting, law

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<sup>125</sup> Lipson, Interview.

<sup>126</sup> Ibid.

<sup>127</sup> Ibid. The FBI established a Law Enforcement Coordination Center in Baton Rouge on September 5, 2005. United States House of Representatives, *Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, A Failure of Initiative*, The Final Report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina. February 15, 2006, 109<sup>th</sup> Congress, 2<sup>nd</sup> Session. P. 250. See also, Congressional Testimony of Kenneth W. Kaiser, Special Agent in Charge, Boston Field Office, before the Senate Homeland Security & Governmental Affairs Committee. February 6, 2006. According to Mr. Kaiser, Special Agent in Charge Michael J. Wolf established the LECC after he arrived in Louisiana on September 4, 2005. See also, The White House, *Hurricane Katrina Lessons Learned*. Appendix B – "What Went Right." Washington DC, February 2006. 127.

<sup>128</sup> United States House of Representatives, *Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina*, 258.

<sup>129</sup> *Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina*.

<sup>130</sup> Lipson, Interview.

<sup>131</sup> Ibid.

<sup>132</sup> Ibid.

enforcement agencies would receive an assigned sector to patrol or a specific mission.<sup>133</sup> This coordination included linking up the supporting law enforcement agency with a NOPD officer, if possible.<sup>134</sup> Seeing the criticality of the law enforcement operations center, other organizations and support organizations eventually co-located at Harrah's, which further enhanced its contribution to interagency operations and effectiveness.

### **3. Security Operations**

While not part of the Special Forces Task Force, the security operations performed by Colorado's Special Forces deserve mention. Approximately two hundred soldiers from Colorado's 5<sup>th</sup> Battalion, 19<sup>th</sup> Special Forces Group (Airborne) deployed to New Orleans in October and November 2005.<sup>135</sup> The battalion headquarters, battalion support company, and two line companies traveled from Colorado to New Orleans and back again via buses.<sup>136</sup> Excluding the time on the road, the unit spent thirty days on the ground.<sup>137</sup> By that time, military operations in the city were divided into eight districts, with an Army National Guard battalion assigned to each district.<sup>138</sup> Once on the ground, the Colorado Special Forces battalion received the mission to patrol the Algiers neighborhood, along with the New Orleans Police Department.<sup>139</sup>

### **4. Analysis**

The actions of the Special Forces Task Force during Hurricane Katrina illustrate many of the characteristics of Special Operations and core competencies of Special Forces. The operations centered around conducting the core task of Special Reconnaissance and collateral activities of Search and Rescue and Coalition Support /

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<sup>133</sup> Lipson, Interview.

<sup>134</sup> Ibid.

<sup>135</sup> Ken Chavez, Lieutenant Colonel, Battalion Commander, 5<sup>th</sup> Battalion, 19<sup>th</sup> SFG(A), Colorado Army National Guard. Email correspondence, September 22, 2007.

<sup>136</sup> Ibid.

<sup>137</sup> Ibid.

<sup>138</sup> Ibid.

<sup>139</sup> Ibid.

Special Forces Liaison Element. The ability to quickly build rapport with civilian law enforcement was essential to the Special Forces Task Force's success. Finally, the Special Forces inherent small-team organization and capabilities — including security, communications and emergency medicine — served to multiply the success of the task force. The core competencies of problem solving, interpersonal skills, facilitating interagency operations, and operating in an austere environment are all present in this case study.

**Problem Solving.** The SF soldiers arrived in New Orleans to a very ambiguous situation. Most National Guard troops dispatched to Louisiana did not know what the mission would be or where it would be performed until they arrived.<sup>140</sup> Additionally, since the conventional National Guard forces responded from many other states, command and control, unity of purpose and situational awareness were lacking during the first several days of the operation. According to the Task Force Deputy Commander, the Special Forces were “largely successful due to the ability to execute (operations) in the absence of guidance or orders.”<sup>141</sup> The task force determined what needed to be done and simply began conducting operations.

**Interpersonal Skills.** The Special Forces soldiers were probably successful in large measure due to their interpersonal skills. Drawing on the core competency of interpersonal skills and experiences working with host nation and indigenous forces around the world, they set the conditions for a productive relationship with the NOPD during their first encounter. Similarly, they effectively coordinated to receive helicopter support from an active duty aviation unit. Most significantly, they influenced the course of all law enforcement operations within New Orleans with the establishment of the law enforcement operations center. Obviously this feat took considerable interpersonal skills. This ability to persuade others is a large part of what makes SF soldiers unique and is difficult to inventory. This ability stems in part from the respect associated with being an elite soldier, partly due to maturity, and finally the professional demeanor ingrained in Special Forces.

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<sup>140</sup> Davis et al., *Hurricane Katrina, Lessons for Army Planning and Operations*, 508.

<sup>141</sup> Lipson, Interview.

**Interagency and Joint Operations.** The Special Forces Task Force immediately facilitated interagency operations with the NOPD. They quickly established rapport and let the NOPD know they were there to assist, not direct or control. Further, they built on this success and eventually incorporated all state, local and federal law enforcement to their operations via the law enforcement operations center. Likewise, the SF soldiers quickly and effectively established working relationships with Air Force, active duty Army aviation elements, and the U.S. Navy in order to maximize their capabilities.

**Austere Environments.** Operating in austere environments for extended periods, with little external support, is a hallmark of Special Forces operations. New Orleans lost all power and running water as a result of Katrina. During operations in New Orleans, the Special Forces Task Force operated in the water, on land and off airborne platforms in order to accomplish the mission.

## **5. Special Forces Employment Criteria**

**Is this an appropriate mission for Special Forces? In other words, does the proposed mission require Special Forces unique skills and abilities in order to produce the desired effect?**

- **SR/Search and Rescue and Coalition Support.** Other elements and units of the Department of Defense and state and local governments can conduct search and rescue. In fact, many other agencies did so in New Orleans. This was still an appropriate mission for Special Forces, however, given their maritime capabilities. Equally important is the ability to operate in ambiguous situations and to quickly size up the situation and set about producing results. Since military forces are generally not the lead in any domestic operations, Special Forces can play a unique role in developing and maintaining interagency relationships with civilian authorities, such as demonstrated in their establishment of the law enforcement coordination center. Since facilitating interagency operations is a core competency of

Special Forces, this type of interagency coordination serves as a force multiplier synchronizing law enforcement agencies into an overall response strategy.

- Security Operations. By the time the Colorado-based Special Forces Battalion Headquarters and associated subordinate units arrived in New Orleans in October, rescue operations were concluded. The battalion's task was to conduct security operations in a given sector of the city. Adjacent units performing the same task were conventional Army National Guard battalions. This mission did not require unique skills or capabilities, and thus was not appropriate for Special Forces.

**Does the mission support the theater campaign plan?**

- In short, there was no coherent campaign plan, which compounded the response effort. However, the National Guard Bureau's request for the states to deploy forces was designed to "mitigate the loss of life and limb in support of Louisiana and Mississippi."<sup>142</sup> As previously stated, absent more specific guidance, Special Forces will develop a plan and execute operations. In the present case, this resulted in saving over four thousand lives.

**Is the mission operationally feasible? Is the proposed mission realistically within the capabilities of Special Forces?**

- All of the missions conducted by the Special Forces Task Force were feasible and within the capabilities of the units. It is important to note, however, that the search and rescue operations were not the only ones being conducted. Special Forces did not rescue all of the people trapped in New Orleans; rather, they used their unique skills and abilities to

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<sup>142</sup> Davis et al., *Hurricane Katrina, Lessons for Army Planning and Operations*, 24.

operate on the water and in the air. Additionally, their rapport and organization skills enhanced the overall effectiveness of the interagency operation.

**Are the required resources available to conduct the mission?**

- As with all disasters, more of everything is immediately needed. No doubt the Special Forces Task Force could have benefited from more boats and vehicles. However, the ability for Special Forces to rapidly conduct similar search and rescue operations during a future major emergency will be more likely limited by rapid deployment capabilities. Alabama and Florida, since they were relatively geographically close, were able to come to the aid of New Orleans fairly rapidly. A similar event may require rapid air and ground transportation resources in order to rapidly move Special Forces into the disaster zone.

**Does the expected outcome justify the risk?**

- Evaluating this criterion is dependant on the particular circumstances. Rescue workers such as fire fighters employ risk analysis to determine if the specific environmental factors present are sufficiently high enough to postpone or cancel search and rescue operations. In some cases, the danger of searching for unknown but possible survivors is outweighed by danger to the rescue force. Special Forces commanders are trained to conduct a risk assessment prior to all operations; search and rescue operations are no exception.



## IV. LEGAL AND POLICY CONSIDERATIONS

This chapter contemplates legal and policy considerations for domestic homeland security missions involving Special Forces. Specifically, constraints on conducting interagency training and operations with civilian law enforcement and intelligence oversight restrictions are briefly described. Furthermore, the unique nature of the constitutionally mandated National Guard is discussed in order to analyze the potential ability of Army National Guard Special Forces to better support homeland security operations.

### A. LEGAL AND POLICY RESTRICTIONS

#### 1. Restriction on Providing Advanced Military Training to Civilian Law Enforcement

Military personnel and units are permitted to provide training in basic military skills to civilian law enforcement agencies.<sup>143</sup> However, Department of Defense policy prohibits providing advanced training to civilian law enforcement agencies.<sup>144</sup> “Advanced military training is defined as high-intensity training which focuses on the tactics, techniques and procedures required to apprehend, arrest detain, search for, or seize a criminal suspect when the potential for violent confrontation exists.”<sup>145</sup> Generally, this does not include skills military personnel learn during basic training, such as basic rifle marksmanship, conducting patrols, planning missions, first aid and survival skills. It does include training in close quarters battle, sniper training, other advanced marksmanship skills and conducting operations in urban areas.<sup>146</sup> On an exceptional

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<sup>143</sup> Department of Defense Directive 5525.5, *DoD Cooperation with Civilian Law Enforcement Officials*, January 15, 1996, Incorporating Change 1, December 20, 1989.

<sup>144</sup> Memorandum, Deputy Secretary of Defense, subject: DoD Training Support to Civilian Law Enforcement Agencies, June 29, 1996. The singular exception to this rule is the U.S. Army Military Police School.

<sup>145</sup> *Domestic Operational Law (DOPLAW) Handbook for Judge Advocates*, 1, Center for Law and Military Operations (CLAMO). U.S. Army Judge Advocate School, July 2006, 32.

<sup>146</sup> *Ibid.*

basis, the commander of U.S. Special Operations Command may approve advanced military training provided by Special Operations Forces to civilian law enforcement agencies.<sup>147</sup> This restriction is “based on prudent concerns that advanced training could be misapplied or misused by civilian law enforcement agencies, resulting in death or injury to non-hostile persons.”<sup>148</sup> This constraint, however, seemingly does not impact the ability of military forces to provide training on specific equipment. Federal law stipulates that the military personnel may provide training on the operation and maintenance of equipment to civilian law enforcement agencies.<sup>149</sup>

## **2. Restriction on Providing Expert Advice**

Federal law permits military personnel to provide expert advice to civilian law enforcement agencies.<sup>150</sup> However, this law is further modified by Department of Defense policy limiting expert advice to irregular, indirect involvement in civilian law enforcement matters.<sup>151</sup> Thus, this policy prohibition could limit the ability of Army Special Forces to provide advice and recommendations during interagency homeland security planning, exercises or operations. As discussed below, the National Guard is a dual status organization. When operating in its state status, with state funding, the Department of Defense restrictions on training and expert advice are arguably, at a minimum, inapplicable if not unconstitutional.

## **3. Restriction on Direct Participation or Direct Assistance in Civilian Law Enforcement Operations**

Simplified, the Posse Comitatus Act (PCA) prohibits the direct involvement of U.S. Army and Air Force personnel in civilian law enforcement.<sup>152</sup> This prohibition is

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<sup>147</sup> *Domestic Operational Law (DOPLAW) Handbook for Judge Advocates.*

<sup>148</sup> *Ibid.*

<sup>149</sup> 10 USC 373.

<sup>150</sup> *Ibid.*

<sup>151</sup> Department of Defense Directive 5525.5, *DoD Cooperation with Civilian Law Enforcement Officials*, January 15, 1996, Incorporating Change 1, December 20, 1989.

<sup>152</sup> 18 USC 1385.

further expanded to the U.S. Navy and Marine Corps through Department of Defense policy.<sup>153</sup> The PCA prohibits federal military personnel from executing the laws of the United States and providing direct assistance to law enforcement agencies. Prohibited direct assistance to civilian law enforcement agencies includes interdiction, search and seizure, arresting or apprehending, and surveillance or pursuit of suspects.<sup>154</sup> Several exceptions to the PCA exist in federal law. The most notable is the insurrection statutes.<sup>155</sup> This set of laws provides the president the ability to use the military to restore order in situations involving insurgency, domestic violence, or conspiracies to thwart state or federal law enforcement.<sup>156</sup> Whether a terrorist attack would trigger such an extreme response will likely be dependent on the severity and duration of the attack, and would be politically sensitive. Other statutory exceptions include actions related to prohibited transactions of nuclear material, emergency situations involving chemical or biological weapons of mass destruction, protecting the president, vice president, members of Congress and other dignitaries, and protecting national parks and other federal property.<sup>157</sup>

Two important observations must be made regarding the PCA. First, the nature of asymmetrical warfare muddies the distinction between homeland defense and law enforcement actions. For example, an invasion of the United States by a foreign military is very clearly not a law enforcement matter. However, a sustained, dispersed terrorism campaign involving improvised explosive devices is less clear cut. Locating and capturing the clandestine terrorist cells could be considered either a homeland defense operation conducted the Department of Defense or a law enforcement operation led by the Federal Bureau of Investigation. Further complicating this scenario is the reality that recent criticism and legal challenges — over operations at Guantanamo Bay, domestic

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<sup>153</sup> 10 USC 375 requires the Secretary of Defense to promulgate policy in this regard, now found in Department of Defense Directive 5025.5.

<sup>154</sup> *Domestic Operational Law (DOPLAW) Handbook for Judge Advocates*, 26.

<sup>155</sup> 10 USC 331-334.

<sup>156</sup> President George Bush used the Insurrection Act to provide active component military support to Los Angeles, California during the 1992 riots. Other portions of the statute were used in the 1960s to enforce school desegregation and control civil rights protest in the Southern United States.

<sup>157</sup> *Ibid.*, 31.

wire tapping by the National Security Agency and related actions — have seemingly restricted the president’s presumptive authority as Commander in Chief under Article II of the Constitution. Thus, in the event of future domestic terrorist attacks, if it is considered a law enforcement action, all of the provisions of the PCA would apply to limit the military’s ability to conduct domestic homeland defense operations. Secondly, the National Guard is not subject to the PCA when operating in either Title 32 or State Active Duty (SAD) status.<sup>158</sup> In its constitutionally mandated role as the state militia, the National Guard is not considered to be federal troops.<sup>159</sup> This flexibility could be a significant factor against federalizing National Guard forces. If authorized by state law, National Guard forces, including Army National Guard Special Forces can, in extreme situations, undertake law enforcement operations. More probable, Army National Guard Special Forces could provide direct assistance to civilian law enforcement. For example, during an ongoing domestic terrorism campaign, civilian law enforcement will likely be stretched to capacity. Army National Guard Special Forces operating in state status could utilize their special reconnaissance skills to assist in the surveillance of suspected terrorists groups.

#### **4. Restriction on Collecting Information Concerning U.S. Persons**

In order to protect Constitutional rights and the privacy of citizens, the military’s involvement with domestic intelligence collection is severely limited. The Department of Defense Directives 5240.1, *DoD Intelligence Activities*, and 5240.1R, *Procedures Governing the Activities of DoD Intelligence Components that Affect U.S. Persons*,<sup>160</sup> strictly govern what information may be collected concerning U.S. persons. The term “U.S. Persons” is expansively defined. While these directives technically apply only to the military intelligence establishment, many of the normal missions conducted by Special Forces would likely be considered intelligence activities if conducted in the

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<sup>158</sup> 10 USC 331-334, 16.

<sup>159</sup> *Perprich vs. Department of Defense*, 496 U.S. 334 (1990).

<sup>160</sup> These DoD Directives implement Executive Order 12333, *United States Intelligence Activities*.

United States. Equally important, the controversy generated by any mission appearing to collect information on U.S. citizens would be substantial.

In broad terms, any action resembling intelligence collection within the U.S. must be carefully considered and related to foreign intelligence or counterintelligence. Thus, any domestic SF mission involving intelligence, surveillance or reconnaissance would need to be carefully synchronized with, and in support of, civilian law enforcement or elements of the intelligence community, and receive a legal review prior to commencement.

## **B. LEGAL CONSIDERATIONS UNIQUE TO THE NATIONAL GUARD**

### **1. Legal Status of the National Guard**

The National Guard is at all times a state entity unless and until called to active, federal duty.<sup>161</sup> Constitutionally created, the National Guard is not only a state agency, but a reserve component of the United States military.<sup>162</sup> As a result, National Guard forces operate in multiple statuses, each with particular constraints and limitations:

#### ***a. Title 10 Status — Federal Funding and Control***

When called to active, federal duty under the provisions of Title 10 of the U.S. Code, National Guard forces are relieved of their state obligations until restored to state status.<sup>163</sup> This “federalization” is normally in response to wartime requirements, although some legal provisions allow for mobilization for domestic emergencies. The specific authorities for calling the National Guard into federal service are discussed below.

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<sup>161</sup> *Perprich v. Department of Defense*.

<sup>162</sup> 10 USC 101(c).

<sup>163</sup> 32 USC 325.

***b. Title 32 Status — Federal Funding; State Control***

Title 32 status is the most common status for National Guard members. Drill weekends and annual training are conducted in this status, and guardsmen receive federal pay and benefits for participating. Despite federal funding, in this status the National Guard remains under the command and control of the state governor. In addition to drill weekends and annual training, National Guard members may be called to Title 32 duty for training or “other duty.”<sup>164</sup>

***c. State Active Duty — State Funding; State Control***

Since the National Guard is primarily a state organization, governors have the legal authority to utilize National Guard forces for state operations and emergencies, pursuant to state law. However, since these state functions are not tied to the National Guard’s role as a reserve component, the state must absorb the cost of these operations, including pay and allowances as dictated by state law.

**2. Mobilization / Activation Authorities**

National Guard troops are primarily a part-time force, serving one weekend a month in Title 32 status. In almost all National Guard units, a small cadre of personnel performs full-time National Guard duty (FTNGD). The FTNGD soldiers primarily provide administrative and logistics support to maintain continuity between training assemblies.<sup>165</sup> More precisely, these soldiers serve for the purpose of “organizing, administering, recruiting, instructing, or training” the National Guard.<sup>166</sup> Specific legal authority is required to mobilize or activate the National Guard in response to a homeland security crisis. The simplest and most efficient mobilization authority is a governor’s authority to mobilize his or her National Guard forces in state active duty status (SAD).

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<sup>164</sup> 32 USC 502(f).

<sup>165</sup> A singular, notable exception to the paradigm of a part-time force is the National Guard’s Civil Support Teams (CST). Each state has a CST designed to rapidly support civilian first responders primarily by providing nuclear, biological and chemical weapons detection systems.

<sup>166</sup> 32 USC 502.

In some cases, such as the National Guard's response to Hurricane Katrina, the Secretary of Defense has authorized retroactive Title 32 duty status — which keeps the National Guard under state command and control, but provides federal pay and benefits. Mobilizing the National Guard units into federal service can be pursuant to one of eight separate statutes: full mobilization for the duration of a war or emergency declared by Congress,<sup>167</sup> partial mobilization of up to 100,000 members of the ready reserve (including the National Guard) for up to two years following a presidential declaration,<sup>168</sup> a presidential reserve call up of up to 200,000 members (of the reserve components) for up to 270 days<sup>169</sup> to repel invasions or rebellions,<sup>170</sup> to quell insurrections, or to suppress domestic violence and lawlessness,<sup>171</sup> a fifteen-day call to federal duty, generally used for training purposes,<sup>172</sup> and individuals may be called to active federal duty in order to receive medical care.<sup>173</sup>

One additional legal mechanism known as “hip pocket activation” allows for a rapid federalization under certain conditions. With prior planning and coordination, National Guard forces can be instantaneously “federalized” in the event of a domestic emergencies and contingency operations. Specifically, section 12301(d) of U.S. Code Title 10, provides that members of the National Guard may be called to active federal duty with their governor's consent. The U.S. Air Force currently uses this provision in a procedure to “automatically convert consenting Air National Guard members into Title 10 (federal) status upon the occurrence of a triggering event.”<sup>174</sup> As a result, during an “air sovereignty event,” Air Guard pilots can launch fighter jets in federal status to

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<sup>167</sup> 10 USC 12301(a).

<sup>168</sup> 10 USC 12302(a).

<sup>169</sup> 10 USC 12304.

<sup>170</sup> 10 USC 12406.

<sup>171</sup> 10 USC 331-333, the Insurrection Act.

<sup>172</sup> 10 USC 12301(b).

<sup>173</sup> 10 USC 12301(h).

<sup>174</sup> U.S. Army, Judge Advocate Center and School, Center for Domestic Operational Law, *Domestic Operational Law (DOPLAW) Handbook for Judge Advocates*, Charlottesville, VA. July 18, 2006.

defend the United States.<sup>175</sup> This mechanism requires the individual guardsmen to volunteer ahead of time and a memorandum of agreement to be executed with the governor involved. Such a mechanism could be emplaced to allow selected Army National Guard Special Forces units to rapidly respond to regional or national events across state lines. This assumes, however, that the part-time Army National Guard Special Forces unit can be rapidly called into service and launched on a mission. In reality, the National Guard can be mobilized in a fairly efficient manner, but not in a way that could be described as rapid. Traditional guard soldiers have jobs and families. They often do not live in the same town where their unit is located. At best, it would be several hours before an organic unit could be assembled and moving toward an objective. To account for this, Florida calls its Special Forces to active duty in advance of approaching storms of a given magnitude. Obviously, this method is only effective for forecasted events.

Relatively recently, Congress granted specific authorization to call National Guard forces to Title 32 active duty for the specific purpose of homeland defense. Chapter 9 of Title 32 provides a mechanism for placing National Guard service members on active duty status for missions approved by the secretary of defense. Since the length of duty under this chapter is limited to one six-month tour, the missions contemplated by this law are short-duration, one-time occurrences — not designed for a durational capability.

The consistent theme in most all of these mobilization authorities is activation in response to a war or emergency. Thus, these legal authorities are responsive in nature and not proactive or even preemptive. Assuming funding is available, National Guard soldiers can be placed on Title 32 orders for operational support.<sup>176</sup> For example, the National Guard's counterdrug program is comprised of National Guard soldiers and airmen who are on active duty orders to support specific counterdrug assignments. This same Active Duty for Operational Support (ADOS) status can be utilized to place entire units on Title 32 active duty. In considering options for placing Army National Guard

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<sup>175</sup> *Domestic Operational Law (DOPLAW) Handbook for Judge Advocates.*

<sup>176</sup> 32 USC 502(f).



Special Forces on active duty orders to conduct long-term homeland security operations, Title 32 ADOS is likely the most feasible option. Once on full-time status, the “hip pocket activation” would be available to federalize the SF unit for national contingencies or to respond to emergencies across state lines under federal control.

### **3. Crossing State Borders**

Not all states have Army Special Forces within their National Guard composition. Consequently, any discussion of Army National Guard Special Forces must contemplate cross-border operations to support neighboring states or to conduct regional contingency operations. If operating in Title 10, federal status, crossing state borders is permissible pursuant to federal law. State governors may send National Guard forces in Title 32 or SAD status to another state by mutual agreement. A more formal alternative is the Emergency Management Assistance Compact (EMAC). EMAC is a mutual aid agreement enacted by the legislatures of all states. This compact allows states to request and receive support from other states in the event of declared emergencies. Article I of the compact includes support in the form of National Guard forces. The emergencies contemplated in the articles of the compact are natural or man-made disasters, technological hazards, civil emergency aspects of resource shortages, community disorders, insurgency, or enemy attacks. Congress ratified this mutual aid compact in 1996, giving the EMAC process legal protections and a firm contractual agreement between states. States may obtain reimbursement from the requesting state under the terms of the compact. Since the compact does not contemplate the use of military force, a separate state-to-state agreement may be needed in order to send troops with the purpose of using National Guard troops in a law enforcement capacity.

### **4. Fiscal Law Constraints**

The National Guard receives the vast bulk of its funding through federal appropriations. As a result, fiscal law limits the expenditure of these funds to the purpose of the appropriation; normally training for federal wartime missions. Whether the National Guard truly has a homeland security mission or purpose is still up for debate;

since there is no funding to train specifically for homeland security. Currently, the only National Guard element funded to train and operate specifically for homeland security is the Civil Support Teams. All other training or operations conducted by the National Guard must have a federal mission nexus. Missions conducted in support of state emergencies must normally be conducted in State Active Duty (SAD) status with the state government paying the bill. On rare occasions such as Hurricane Katrina, Title 32 status and federal funding is authorized. Since homeland security is not yet codified in law or doctrine as a mission of the National Guard, the homeland security missions contemplated in this thesis would need a specific authorization and funding source to be legally compliant.

## **V. POTENTIAL HOMELAND SECURITY MISSIONS FOR U.S. ARMY SPECIAL FORCES**

This chapter begins by describing the homeland security doctrinal environment. Specifically, the two specific military responsibilities: Homeland Defense and Defense Support of Civil Authorities. Within this doctrinal context, and based on the lessons learned from the case studies, the canons of Special Forces core tasks, collateral activities and core competencies are applied to identify potential missions for Special Forces.

### **A. HOMELAND SECURITY DOCTRINAL FRAMEWORK**

“Homeland security” is defined in *The National Strategy for Homeland Security* as “a concerted national effort to prevent terrorist attacks within the United States, reduce America’s vulnerability to terrorism, and minimize the damage and recover from attacks that do occur.”<sup>177</sup> The Department of Homeland Security is the lead agency for homeland security, and the Department of Justice is the lead agency for law enforcement at the federal level. The Department of Defense, including the Army, is tasked to support these efforts through Homeland Defense and Civil Support operations.<sup>178</sup> In other words, Homeland Defense and Defense Support of Civil Authorities (DSCA) are two overlapping and supporting military missions sustaining national homeland security.

“Homeland defense” is defined by *The Strategy for Homeland Defense and Civil Support* as “the protection of U.S. sovereignty, territory, domestic population, and critical defense infrastructure against external threats and aggression, or other threats as directed by the president.”<sup>179</sup> The DoD is the lead agency for homeland defense. “Defense support to civil authorities” is defined by *The Strategy for Homeland Defense and Civil Support* as “DoD support including federal military forces, the department’s career

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<sup>177</sup> The White House, *The National Strategy for Homeland Security*, Washington, DC, July, 2002, 2.

<sup>178</sup> Department of Defense, *Strategy for Homeland Defense and Civil Support*, Washington, DC, June 2005.

<sup>179</sup> *Ibid.*, 5.

civilian and contractor personnel and component assets, for domestic emergencies and for designated law enforcement and other activities.”<sup>180</sup>

The Department of Defense Joint Publications (JP) elaborating on these missions are JP 3-26.1, *Homeland Defense* (2007) and JP 3-28, *Civil Support* (2007). Both publications clarify the Army’s roles and responsibilities in homeland security. The Army has major responsibilities within the homeland security joint – interagency framework. For example, the commander of U.S. Army North, the subordinate service component of NORTHCOM, is “generally responsible for conducting homeland defense land operations.”<sup>181</sup> These responsibilities may include conducting operations such as “forcible entry from land, sea or air; decisive fires and maneuver, closing with and destroying a determined enemy” and other ground combat tasks.<sup>182</sup> In short, JP 3-27, *Homeland Defense*, requires the Army to be prepared to conduct full-spectrum operations in the United States, its territories and possessions. Such operations may include the core tasks for Special Forces envisioned in FM 3-05.20, *Special Forces Operations*, including direct actions missions. In fact, JP 3-27 recognizes the potential for domestic special operations. However, since *Special Forces Operations* does not discuss homeland defense unique tasks, this chapter will contain only those missions which might occur short of actual conflict.

All homeland security doctrine published recognizes that the reserve components, particularly the National Guard, possess a tremendous capacity to conduct Homeland Defense and DSCA missions. Within the National Guard, the Army National Guard will bear the primary responsibility for these missions due to its overwhelming proportion of force structure within the Guard. Thus, the mission profiles discussed here are suitable for Army National Guard Special Forces as well as their active-duty counterparts. These potential homeland security missions and their doctrinal origin are summarized in the table below.

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<sup>180</sup> Department of Defense, *Strategy for Homeland Defense and Civil Support*.

<sup>181</sup> Department of Defense, Joint Publication (JP) 3-27, *Homeland Defense*, Washington, DC, July 12, 2007, II-6.

<sup>182</sup> *Ibid.*, IV-2.

## Core Tasks

Combat Task	Potential HLS Task
Foreign Internal Defense (FID)	Training Law Enforcement Interagency Partners in Advanced Skills in order to Combat Terrorism; Security Operations.
Direct Action (DA)	Direct Action and or Technical Advice to Civilian Law Enforcement Agencies.
Strategic Reconnaissance (SR)	Post Event Damage Assessment & Communication Support.  Border or Port Surveillance  Vulnerability Assessments & Red Teaming.
Unconventional Warfare (UW)	
Counterterrorism (CT)	Counterterrorism.  Enabling Force for National Assets.
Counterproliferation (CP)	Counterproliferation.

## Collateral Activities

Coalition Support	Liaison Element to Interagency Partners.  Communications Support to Interagency Partners.
Combat Search and Rescue	Search and Rescue.
Counterdrug Activities	Counterdrug Activities.
Countermine Activities	Counter Domestic Improvised Explosive Device (IED) Activities
Humanitarian Assistance	Humanitarian Assistance
Special Activities	

## Special Capabilities

Underwater Operations (SCUBA)	Underwater Operations (SCUBA) (Port Security Applications)
Waterborne Operations	Waterborne Operations
Advance Communications	Advanced Communications

Table 2. Potential Homeland Security Missions for Special Forces

## **B. POTENTIAL HOMELAND DEFENSE MISSIONS.**

### **1. Random Anti Terrorism Measures (RAM)**

Terrorist want to avoid the unexpected and unpredictable. Because maintaining a constant impenetrable level of security at all potential terrorist targets is unrealistic and cost prohibitive, unpredictable surges and demonstrations of force help keep terrorist groups off balance. Special Forces teams can conduct random surge operations designed to illustrate the irregularity and/or invisibility of security measures. For example, a Special Forces detachment could conduct seemingly random visits to defense critical infrastructure such as nuclear reactors or oil refineries, bolstering the security force. Depending on the threat analysis, the RAM operations could be high-visibility events such as landing on the infrastructure site in helicopters, in uniform, with their full complement of weapons and equipment. On the other hand, the RAM could be conducted in a low-visibility manner using civilian vehicles and plain clothes. Terrorists conducting reconnaissance, surveillance or pre-attack preparations would, at a minimum, be forced to reevaluate their plans. A RAM's effectiveness can be enhanced by coordinated media coverage — possibly termed a training event for future, potential security events. The RAMs duration can be short or it can last for days. For example, the SF detachment could stay on-site to conduct joint training with the security force, and become familiar with a potential terrorist target for future reference. When executed properly, effective interagency relationships can be built prior to a security event or disaster. Likewise, a RAM could be conducted in conjunction with, or followed by, a vulnerability assessment of the infrastructure by the SF detachment. RAMs are not only well suited for infrastructure, but also other locations effecting homeland security, such as border crossings and ports.

### **2. Vulnerability Assessments / Red Teaming**

As previously discussed, one of the core tasks for Special Forces is the direct action (DA) mission. Special Forces train to infiltrate into an overseas area of operation

in order to “seize, destroy, capture, exploit, recover, or damage designated targets.”<sup>183</sup> The DA mission differs from a conventional attack because of the small size of the SF force and the specialized, unconventional techniques employed by Special Forces. This unconventional mind set and their combined arms capability makes Special Forces ideally suited to determine how a clandestine group might attempt to attack specific targets in the United States. Special Forces detachments can provide a “red team” analysis of potential terrorist targets. In other words, the SF detachment would assume the role of terrorist in order to identify vulnerabilities and weaknesses in the government’s security posture. The “red team” analysis could include surveillance and reconnaissance on the “target,” complete with photographs and video, identifying vulnerable patterns and weaknesses.

For several years, the National Guard Bureau has touted the Guard’s capability to conduct Critical Infrastructure Protection vulnerability assessments. Originally the program was called Full Spectrum, Integrated Vulnerability Assessments (FSIVA). The current terminology used by the National Guard Bureau is Critical Infrastructure Protection – Mission Assurance Assessments (CIP-MAA). Under this concept, “National Guard CIP-MAA Detachments conduct all-hazards risk assessments on prioritized federal and state critical infrastructure in support of the Defense Critical Infrastructure Program (DCIP).” This program, however, is being conducted on a very small scale. Currently, only six states are authorized and resourced for the CIP-MAA program. The proposal contained in Chapter VII may offer a mechanism to greatly enhance this capability.

### **3. Special Reconnaissance in Support of Homeland Defense**

Special Forces can support homeland defense operations by conducting SR to observe and report on suspicious activities potentially tied to terrorist activities or other transnational threats. While the vast majority of these missions are more appropriate for civilian law enforcement, there may be some scenarios that require a skill set unique to

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<sup>183</sup> Department of the Army Field Manual (FM) 3-05.20, *Special Forces Operations*, October 10, 2006, 3-1.

Special Forces. For example, if intelligence indicated that a terrorist group will attempt to move a WMD across the Southwest Border in a remote location in Arizona, a SF team could be assigned the missions to conduct surveillance of the border location from a concealed hide site. Likewise, the waterborne and SCUBA capabilities found in Special Forces can be utilized to conduct surveillance of suspicious ships, either in U.S. ports or approaching ports. Yet another potential application is SR conducted on suspected terrorist training camps or safe houses. In these limited cases, the SF detachment could serve as a force multiplier for the DoD or federal law enforcement agency conducting the investigation. In other situations, the SF detachment could provide the training needed for the law enforcement agency in order to conduct the operation.

#### **4. Security Operations**

While most security operations are much more appropriate for civilian law enforcement agencies, the Department of Defense does support a wide variety of high-threat, special events in the United States. For example, federal law specifically authorizes DoD support to certain sporting events such as the Olympics, World Cup Soccer or the Super Bowl.<sup>184</sup> Likewise, events designated as National Special Security Events (NSSE) receive military support.<sup>185</sup> For example, the Department of Defense supported the World Trade Organization (WTO) conference in Seattle, Washington, in 1999 as a NSSE.<sup>186</sup> The National Guard may support a NSSE as part of the federal DoD effort, or under the confines of their state role. For example, the Washington National Guard supported the 1999 Seattle WTO conference in accordance with the Washington

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<sup>184</sup> 10 USC 2564(a): “At the request of a federal, state, or local government agency responsible for providing law enforcement services, security services, or safety services, the Secretary of Defense may authorize the commander of a military installation or other facility of the Department of Defense or the commander of a specified or unified combatant command to provide assistance for the World Cup Soccer Games, the Goodwill Games, the Olympics, and any other civilian sporting event in support of essential security and safety at such event, but only if the Attorney General certifies that such assistance is necessary to meet essential security and safety needs.”

<sup>185</sup> Center for Law and Military Operations (CLAMO), U.S. Army Judge Advocate School, *Domestic Operational Law (DOPLAW) handbook for Judge Advocates*, Charlottesville, VA, July 18, 2006. 144, citing Presidential Decision Directive 62 (PDD 62), Protection Against Unconventional Threats to the Homeland and Americans Overseas (May 22, 1998) (classified secret).

<sup>186</sup> Ibid.



State Comprehensive Emergency Management Plan.<sup>187</sup> Within this context, Special Forces detachments can provide security assistance or expertise to special events. Such assistance could include serving as a Personnel Security Detachment (PSD) for dignitaries or other sensitive security functions that require a high level of professional skills and abilities. Additionally, SF teams could provide “red teaming” or vulnerability assessments for events as discussed above.

## **5. Enabling Force for National Assets Conducting Counterterrorism or Counterproliferation Missions**

Counterterrorism (CT) and/or Counterproliferation missions conducted in the United States, whether by Department of Defense or other governmental agencies, are likely classified operations beyond the scope of this thesis. However, while Special Forces may not execute these missions, they can serve as an enabling force for a Department of Defense special mission unit. The SF detachment can provide additional security, logistical or communications support as required. Depending on the location of the counterterrorism operation, the SF detachment may be able to assist in mission preparation by providing critical information on the local area. In short, a Special Forces detachment can perform an advance party support role during a response by national assets.

## **6. Direct Action**

The use of U.S. military forces in any domestic operation is distasteful at best. The military conducting combat operations in the United States could be considered as the nightmare scenario. Nonetheless, this eventuality must be contemplated given the contemporary operating environment. A realistic assumption can be made that any domestic combat operation, short of a true military engagement, will be conducted by DoD national-level assets. Given a broad and sustained terrorism campaign such as IED attacks, school bombings or mass transit attacks, however, the military, and Special Forces in particular, could be required to conduct direct action missions to defeat terrorist

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<sup>187</sup> *Domestic Operational Law (DOPLAW)*, handbook for Judge Advocates.

cells. These missions could be in the form of combined operations with civilian law enforcement or unilateral operations. Likewise, National Guard Special Forces, operating in their state status, unconstrained by the Posse Comitatus Act, could be ordered to operate as a law enforcement entity to kill or capture terrorists operating in the United States.

## **C. POTENTIAL DEFENSE SUPPORT OF CIVIL AUTHORITIES MISSIONS**

### **1. Training and Advice to Interagency Partners**

As previously discussed, training others is a core competency of Special Forces. Success in Unconventional Warfare and Foreign Internal Defense missions largely depends on the ability to proliferate capabilities in allied forces. In peacetime, Special Forces continue to train military, paramilitary, or police forces through mobile training teams while conducting the collateral activity of security assistance.<sup>188</sup> Fundamental to all of these missions is the recognition that, by training others, the United States may avoid, minimize, or reduce its involvement in overseas conflicts. As demonstrated in the Florida case study, Special Forces soldiers possess skills useful to civilian agencies, especially law enforcement. Through training, Special Forces can enhance the skills and capabilities of interagency partners, and possibly reduce the potential for use or misuse of the military in domestic law enforcement operations. At the same time, by training others, Special Forces increase their own wartime readiness to conduct UW and FID. Equally important, training interagency partners builds relationships that enhance interagency operability during times of crisis. Within the legal limitations discussed previously, Special Forces can enhance interagency skill sets in the foundational skills of SF: weapons, explosives, communications, and emergency medical procedures. Additionally, Special Forces can instruct interagency partners on many other tactics, techniques and procedures, such as maritime, air mobile and urban operations. Implicit in this concept is a validated request from the law enforcement or other federal, state or local governmental agency. The interagency partner knows best what assistance is

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<sup>188</sup> U.S. Army Field Manual (FM) 3-05.20, *Special Forces Operations*, June 2001, 2-23.

needed, if any. This study only recognizes that within the Army, Special Forces are the ideal educators to enhance interagency operations.

## **2. Humanitarian Assistance**

Foreign humanitarian assistance is a collateral activity of Special Forces. “The ability to deploy on short notice to remote regions, familiarity with multiagency operations, and limited logistics support requirements, all favor SF involvement in disaster relief operations.”<sup>189</sup> Within the context of domestic operations, these same advantages exist. Special Forces are well suited for some specific tasks that exceed the capabilities of first responders. Examples include distributing relief supplies or providing emergency medical support in remote or isolated locations. Likewise, Special Forces involvement may be well suited for domestic disaster response operations in areas experiencing civil unrest.

## **3. Special Reconnaissance for DSCA Operations**

The National Guard currently conducts domestic surveillance and reconnaissance operations in support of civilian law enforcement agencies. Specifically, two ongoing operations fall into the doctrinal framework of defense support to civil authorities (DSCA). First, as discussed in the Florida case study above, National Guard Special Forces counterdrug personnel support civilian law enforcement by providing reconnaissance and surveillance on suspected drug trafficking locations such as clandestine drug labs or trans-shipment locations. Likewise, National Guard personnel are currently conducting reconnaissance and surveillance on the Southwest Border in support of Operation Jump Start. Entry identification teams identify illegal aliens crossing the border in remote locations and notify the border patrol for apprehension. Similar operations, including counterdrug operations, in support of civil authorities requiring SF unique skills or abilities may be appropriate DSCA missions for Special Forces.

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<sup>189</sup> U.S. Army Field Manual (FM) 3-05.20, *Special Forces Operations*, June 2001, 2-23.

#### **4. Interagency Liaison Teams (SF Liaison Element)**

Previously, SF liaison elements were known as “Coalition Support Teams.” Under current doctrine, SF conducts the collateral activity of serving as a Special Forces Liaison Element (SFLE) to conventional U.S. forces and foreign allies. The mission of a SFLE is to establish rapport, educate, and determine requirements and expectations of the supported unit or coalition partner’s headquarters.<sup>190</sup> The intent of liaison missions is to improve the interaction and interoperability of coalition partners and U.S. military forces.<sup>191</sup> In combat operations, the “SFLE advise their foreign counterparts on U.S. military intentions, capabilities, provide training, provide global positioning system downlinks, and secure communications between the supported forces.”<sup>192</sup> In major homeland security operations, the same or similar liaison tasks can assist civilian agencies, state or local governments or non governmental organizations such as the Red Cross, and operate alongside and with military forces. A SFLE can help bridge the gap between civilian methods and procedures and military operations. SF teams could advise interagency partners operating in the disaster area on the intentions, capabilities and limitations of military forces. Stated differently, the SF liaison team can explain what the military is doing — and why — to interagency partners that may have a limited understanding of the military. Additionally, as demonstrated during Hurricane Katrina, Special Forces conducting coalition support or liaison operations can enhance the collective efficiency of interagency operations. While domestic operations do not rely on regional orientation and cultural awareness, the level of professionalism and maturity found in Special Forces soldiers makes them well suited to conduct homeland security liaison missions with civilian, interagency partners.

#### **5. Communications Support to Interagency Partners**

Special Forces can serve as communications teams to support large-scale response operations involving multiple civilian agencies. This mission can be executed in

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<sup>190</sup> U.S. Army Field Manual (FM) 3-05.20, *Special Forces Operations*, October 2006, 4-5.

<sup>191</sup> U.S. Army Field Manual (FM) 3-05.20, *Special Forces Operations*, June 2001, 2-21.

<sup>192</sup> Ibid.

conjunction with or independent of a larger liaison mission. In the post-September 11 world, interoperable communications remain a challenge. Despite the realization that interoperable communications are paramount in effective disaster response operations, not all potential interagency partners have interoperable systems. Poor communications will remain a challenge in all large-scale domestic operations involving multiple civilian agencies. Special Forces detachments are trained and equipped with sophisticated communications systems capable of sending voice or data messages from great distances in hostile environments. Two Special Forces communications sergeants serve on a Special Forces detachment. In addition, all detachment members are cross-trained to operate the communications systems assigned to the team. In some situations, SF detachments operate as two “split teams.” As a result, the detachment is generally equipped with two of each communications system. Therefore, a Special Forces detachment can field two or possibly more communications teams to civilian interagency partners. These teams would establish and maintain a communications channel between various civilian agencies command posts, allowing them to send and receive real-time messages in emergencies.

## **6. Search and Rescue Operations**

Special Forces perform combat search and rescue operations as a collateral activity. This means that SF possesses the capability to conduct combat search and rescue, but “is not specifically manned, trained, or equipped” to conduct these operations.<sup>193</sup> As documented in the Hurricane Katrina case studies *infra*, Special Forces are uniquely well suited to conduct some search and rescue operations as part of DSCA operations. Rescues requiring Special Forces unique skills or equipment, such as SCUBA or waterborne operations, are a prime example. Likewise, search operations in very remote areas or under extreme weather conditions might be suitable for Special Forces participation. Finally, other missions dependent on advanced communications ability or conducted as part of a larger interagency effort might be appropriate for Special Forces.

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<sup>193</sup> U.S. Army Field Manual (FM) 3-05.20, *Special Forces Operations*, June 2001, 2-22.

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## **VI. POLICY RECOMMENDATIONS AND CONCLUSION.**

Considering the research and analysis developed above, this chapter makes modest proposals that will enhance the ability of Special Forces to contribute to homeland security operations. The first proposal impacts both active component and National Guard Special Forces, while the second proposal is specific to the Army National Guard.

### **A. PUBLISH DOCTRINE FOR SPECIAL FORCES HOMELAND SECURITY OPERATIONS**

Current doctrine should be revised to contain an explanation of appropriate missions and tasks for Special Forces in homeland security operations. Alternatively, a separate field manual could be developed. Whether existing doctrine is revised or new doctrine published, the appropriate role for SF within homeland security operations needs to be defined in advance of future natural or man-made disasters. Additionally, this proposed doctrine should recognize the unique nature of the Army National Guard Special Forces units, and provide guidance for the appropriate use of Army National Guard Special Forces by their home-state governors in domestic operations.

Army field manual (FM) 3-05.20, *Special Forces Operations*, is the doctrinal foundation for Special Forces. It describes “SF roles, missions, capabilities, organizations, command and control, employment, and sustainment operations across the operational continuum.”<sup>194</sup> FM 3-05.20 is subordinate doctrine to FM 3-05, *Army Special Operations Forces*. Likewise, FM 3-05.20 provides the basis for all subordinate Special Forces specific doctrine. An inventory of subordinate doctrine is contained below.

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<sup>194</sup> U.S. Army Field Manual 3-05.20, *Special Forces Operations*, 2006.

FM 3-05.201 SF Unconventional Warfare	FM 3-05.213 SF Use of Pack Animals
FM 3-05.202 SF Foreign Internal Defense	FM 3-05.214 SF Vehicle Mounted Operations
FM 3-05.203 SF Direct Action TTP	FM 3-05.220 SF Advanced Special Operations
FM 3-05.204 SF Special Reconnaissance TTP	FM 3-05.221 SF Advanced Urban Combat
FM 3-05.210 Special Forces Air Operations	FM 3-05.222 SF Sniper Training and Employment
FM 3-05.211 SF Military Free Fall Operations	FM 3-05.230 SF Base Camp Operations
FM 3-05.212 SF Waterborne Operations	FM 3-05.231 SF Personnel Recovery

Table 3. Special Forces Doctrine

As the table above demonstrates, the library of Special Forces doctrine covers some of the core Special Forces tasks, infiltration techniques, and specialized skills. Some of these field manuals are classified. Stated simply, FM 3-05.20, *Special Forces Operations* describes what Special Forces does, and the subordinate doctrine explains tactics, techniques and procedures to accomplish the specific mission or task. Missing within *Special Forces Operations* and its subordinate doctrine is any discussion or explanation of what Special Forces do in the homeland security environment. It may be advantageous to focus the efforts of Special Forces overseas, eliminating threats and shaping the security environment. However, the nature of warfighting has changed. Our adversaries have already attacked the homeland and are committed to attempting additional attacks. Thus, in today's environment, assuming Special Forces will not be employed in the United States is a bold and likely incorrect assumption. Failure to define appropriate roles and missions during domestic operations could lead to a misuse of a key asset or to the creation of negative perceptions in the populace.

Homeland Security operations are best described as a type of mission within the range of military operations. Likewise, civil support operations are one of the four types of missions found in full-spectrum operations. In any homeland security operation, Special Forces will likely employ tactics, techniques and procedures from their



Unconventional Warfare toolbox. Moreover, many of the Special Forces core competencies will be required in order to be successful. Thus, an additional chapter within *Special Forces Operations* is the most suitable location for a discussion of SF homeland security operations. While many of the same SF tactics, techniques and procedures are applicable to homeland security operations, the operating environment is radically different. For example, DoD will almost always be in a supporting role to another governmental agency. Additionally, homeland security requires a collaborative effort rather than a pure unity of command model. Furthermore, the interagency partners have a different common operating framework than the Army. Without a doctrinal framework, Special Forces will operate at a disadvantage. More importantly, civilian and conventional force military leaders will lack an understanding of what missions and tasks are feasible, acceptable and suitable for Special Forces. This doctrinal void could lead to the improper employment of Special Forces.

#### **B. AUTHORIZE AND ESTABLISH FULL-TIME NATIONAL GUARD DUTY SPECIAL FORCES DETACHMENTS**

The states that possess Special Forces within their Army National Guard force structure should be federally authorized and funded to maintain a twelve-man, Special Forces Operational Detachment on Title 32 full-time National Guard Duty (FTNGD) status. This full-time status should be under the construct of Additional Duty for Operational Support (ADOS). This status would enable the service members to continue to participate as members of their National Guard Special Forces unit, thus maintaining combat readiness. This proposal represents a significant paradigm shift from the traditional concept of a part-time military force. The threats found in the contemporary operating environment, however, demand a shift from obsolete methods. The ability for an immediate combined arms response, enhanced interagency relationships, and a domestic, forward-deployed special operations capability represent the value innovation contained in this proposal. Currently, each state has only one type of full-time National Guard unit capable of immediate response: the Civil Support Team. While extremely beneficial, the CST is a specialized WMD response capability. A Special Forces detachment on the other hand represents a small, but highly skilled, combined arms team

capable of conducting a broad array of operations. This dedicated homeland security force would be immediately available to conduct the Special Forces core tasks and collateral activities discussed in this thesis. This would provide governors and the president a pre-positioned, mission-ready team of special operators to conduct homeland security activities before, during and after natural or man-made disasters. For example, in the event of a land- or sea-based, mass-migration event across the U.S. border, a full-time Special Forces detachment could be immediately deployed by helicopter to the area. Using their organic communications equipment, the detachment would report their assessment of the situation and prepare for follow-on forces. Likewise, in the event of a terrorist bombing, the FTNGD SF detachment could rapidly deploy in order to gauge and report the required composition of military support needed. Not only would these teams be able to assist in consequence management, they would provide an additional means to support the identification, prevention, deterrence and disruption of potential terrorist acts. More routine applications could include training interagency partners in counterterrorism skills in order to enhance their homeland security posture, conducting vulnerability assessments of critical infrastructure and red teaming domestic threat scenarios.

Additionally, utilizing the “hip pocket” activation concept discussed above, FTNGD Special Forces detachments could be immediately federalized in order to respond as required across state lines as a regional capability. Likewise, this unit would represent a domestic, forward-deployed Special Forces element for national-level contingencies.

By placing the Army National Guard Special Forces detachment on full-time duty under Title 32 (federally funded, state controlled), all issues related to the Posse Comitatus Act are avoided — at least until the unit is called into federal service. For this proposal to be most effective, current Department of Defense policies concerning training, and advising civilian law enforcement and other interagency partners, should be modified. The very real concern regarding the content and quality of training provided to civilian law enforcement can be managed through a standardized, Department of Defense approved program of instruction. Public relations efforts concerning these full-time detachments should focus on the civil support aspects rather than the homeland defense

missions in order to alleviate concerns regarding civil liberties. Emphasis should be placed on the medical, communications and engineering support to the interagency team, rather than on the potential missions to detect or disrupt terrorist cells. Some missions should be performed in a low-visibility manner, perhaps in civilian clothes.

The major objections to this proposal will include the idea that it is unnecessary to maintain a unit on National Guard active duty status when National Guard forces can be rapidly called into service. In reality, the National Guard can be mobilized in a fairly efficient manner, but not in a way that could be described as rapid. Traditional guard soldiers have jobs and families. They often do not live in the same town where their unit is located. At best, it would be several hours before an organic unit could be assembled and moving toward an objective. Additionally, a larger conventional force means larger numbers of soldiers, which, in turn, requires larger transportation assets. Finally, even if a conventional force could be rapidly assembled and deployed to an emergency, this unit would not have the combined arms capability of a SF unit. Since SF detachments contain medics, engineers, intelligence, communications and weapons specialist, the combined capabilities would be difficult to match in any sized conventional unit. Similarly, some critics might contend that conventional National Guard forces can do many of the tasks outlined above. This criticism is true. However, other than the civil support teams found in each state, there is no standing National Guard unit of any type on National Guard active duty. Given current budget constraints, maintaining a twelve-man Special Forces detachment on active duty provides a much greater cost-benefit ratio than a much larger conventional force.

### **C. ISSUES FOR FURTHER STUDY**

Two issues related to command and control of Special Forces during domestic operations merit further research and consideration. First, what are the best practices when Army National Guard Special Forces operate in combined multi-state operations under state active duty (SAD) or Title 32 status such as the Hurricane Katrina scenario? Secondly, who has command and control of Army National Guard Special Forces when called to federal service for a domestic crisis?

Multi-state National Guard operations conducted under the command of home-state governors are rare and, by their nature, a collaborative effort. Command options should be identified to facilitate unity of effort. These options may include voluntarily ceding operational control (OPCON) or tactical control (TACON) to another state providing a Special Forces headquarters, placing the Special Forces elements on a Title 10 status through “hip pocket” activation or a fifteen-day involuntary federal mobilization, or simply coordinating mutually supportive actions while remaining independent operations. Each method has potential advantages and disadvantages worthy of study.

A federal activation for domestic operations generates separate command and control issues. Army National Guard forces ordered to federal active duty for a Homeland Defense or Support to Civil Authority mission will presumably fall under the command and control of U.S. Northern Command (USNORTHCOM). However, all active and reserve component (Title 10) Special Forces units in the Continental United States are under the Command of U.S. Special Operations Command (USSOCOM), unless otherwise specifically directed by Secretary of Defense.<sup>195</sup> JP 3-27, *Homeland Defense*, states, “when directed, CDRUSSOCOM relinquishes OPCON/TACON of U.S.-based SOF and OPCON/TACON is assumed by CDRUSNORTHCOM for HD operations in the USNORTHCOM AOR. Thus, in the event of a large-scale homeland security contingency requiring the mobilization of the Army National Guard, confusion may result over which combatant commander has command and control over Army National Guard Special Forces. Likewise, many state adjutants general may not fully understand this distinction. This situation is further compounded by the fact that, unlike other theater combatant commands, U.S. Northern Command does not have a Theater Special Operations Command. Previous authors have commented on the need for a USNORTHCOM Special Operations Command (or SOC North); however, none have

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<sup>195</sup> 10 USC 167.

addressed the potential disorder to command and control of Army National Guard Special Forces called to active, federal duty in the United States.<sup>196</sup>

#### **D. CONCLUSION**

Army Special Forces, especially Army National Guard Special Forces, will be involved in future homeland defense and civil support operations. Doctrine for domestic Special Forces operations should be developed to provide guidance on the proper employment of Special Forces. Considering the operational demands placed on Special Forces, any domestic operations doctrine should be based on current core tasks and the traditional collateral activities of Special Forces. States that have an Army National Guard force structure should be authorized to maintain one SFODA on full-time National Guard duty status in order to enhance the homeland security posture of both their home state and the United States.

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<sup>196</sup> See Major Gay McGillis, "Organizing NORTHCOM for Success: A Theater Special Operations Command." United States Army Command and General Staff College (Academic Year 02-03), and Otis McGregor III, "Command and Control of Special Operations Forces Missions in the U.S. Northern Command Area of Responsibility." Naval Postgraduate School (March 2005).

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